

REPORT
on the Free Movement of Workers
in Finland in 2004

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Introduction

The new Aliens Act entered into force on 1 May 2004. This legislative reform had impact on the position of the EU citizens. The provisions of the Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States were taken into account in the new Aliens Act rather extensively. EU citizens are, for example, no longer required to have a residence permit in order to reside in Finland; instead, it is sufficient that they register their right of residence in the alien's register.

Compared with the previous Aliens Act the new Act is more detailed and therefore fewer aspects of freedom of movement are now left to be regulated by administrative orders and recommendations. Therefore, the manner of implementation of the EU rules is now less problematic than under the previous Act in light of EC principles and the Finnish Constitution.

In 2004 the most significant problems in the area of free movement of EU citizens concerned the position of the citizens of the new Member States. A two years transitional period is applied to access to the Finnish labour market of citizens of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia. During the transitional period a special permit is required from the citizens of these states to be employed in Finland. The number of employers entering the Finnish Labour Market under the Act on transitional measures is relatively low. However, as the transitional measures do not apply to the movement of persons within the framework of freedom of services, a rather significant number of citizens of the new Member States have entered the Finnish labour market as posted or hired workers. In such situations the supervision of the conditions for work has turned out to be problematic. For example, the wages paid are often remarkably lower than the wages paid in regular employer-employee –relationships in Finland, the working hours longer, and other conditions, too, weaker. The decision on whether to continue the transitional measures after the first two years will be made during the second year. At this point it is still too early to say what will happen in this respect.

Another problem relating to the treatment of the citizens of the new Member States in the area of freedom of movement was the way the grounds for removal were applied in cases involving them. In 2004 in both administrative and judicial practice there were decisions which did not meet the requirements concerning treatment of EU citizens following from EC law. Citizens of the new Member States were, for example, removed from Finland on grounds of activities that were not prohibited in Finland, such as prostitution. It remains to be seen whether this remains a phenomenon particular to the transitional period or whether it reflects more fundamental problems in the system.

The requirements concerning linguistic competence of the personnel of the public sector continue to be somewhat problematic despite of the legislative reform that took place in the beginning of 2004. Compared with the previous Act, the requirements under the new Act are better in line with the requirements following from EC law. For example, perfect command of the national languages is no longer required for public offices. Even despite of the positive developments, problems arguably still persist in this area as the requirements continue to be rather inflexible.

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As regards the Commission's comments on the Finnish report:

The first paragraph of the introduction should be as follows (the reference to the proposal for the directive and not the directive itself, a clarifying footnote):

Introduction

The new Aliens Act entered into force on 1.5.2004. This legislative reform had impact on the position of the EU citizens. The proposal for a European Parliament and Council Directive of 23 May 2001 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States [COM(2001) 257 - Official Journal C 270 E of 25.09.2001] was taken into account in the new Aliens Act rather extensively.¹ EU citizens are, for example, no longer required to have a residence permit in order to reside in Finland; instead, it is sufficient that they register their right of residence in the alien's register.

The following footnote should be added to the title Entry:

Entry²

Appendix II to be added after Appendix I:

APPENDIX II

Relevant internet sites

- Legislation in Finnish and Swedish: <http://www.finlex.fi>
- Directorate of Immigration: <http://www.uvi.fi>
- Supreme Court: <http://www.kko.fi>
- Supreme Administrative Court: <http://www.kho.fi>
- Labour Court: <http://www.oikeus.fi/tyotuomioistuin>

¹ The Directive 2004/38/EC had not yet been adopted when the new Aliens Act was drafted and thus the references were made to the proposal for the directive.

² The question of denial of entry is discussed under the heading "Departure" as it links closely to the question of deportation.

Chapter I

Entry, residence, departure

The questions of entry, residence and departure of aliens, including citizens of the other EU states, are regulated in the Aliens Act. The new Aliens Act (*Ulkomaalaislaki* 301/2004) (the Aliens Act) entered into force on 1.5.2004.

The EC rules concerning free movement of persons were taken into account rather extensively in the new Aliens Act. According to the Government Bill to the Parliament for Aliens Act (*Hallituksen esitys Eduskunnalle ulkomaalaislaiksi ja eräiksi siihen liittyviksi laeiksi*, HE 28/2003 vp, hereafter the Government Bill 28/2003) the provisions of the new Aliens Act, that concern free movement of EU citizens and their family members and other relatives, are based on EC free movement legislation, the relevant decisions by the European Court of Justice (hereafter ECJ) and the Proposal for a European Parliament and Council Directive of 23 May 2001 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States [COM(2001) 257 - *Official Journal* C 270 E of 25.09.2001].

The new Aliens Act is, by and large, relatively unproblematic in how it reflects the requirements of EC legislation concerning entry, residence and departure of EU citizens. Compared with the previous Act, the new Act is more complete and detailed and fewer issues are left to be dealt with in administrative regulations. This is a significant improvement as the level of implementation was one of the major problems related to the old Act both in the light of EC law and the Finnish Constitution.

The provisions concerning free movement of EU citizens and their family members are contained in chapter 10 of the Aliens Act. According to Section 153 of the Act, chapter 10 applies to EU citizens and comparable persons and their family members and other relatives. Citizens of Iceland, Liechtenstein, Norway and Switzerland are, according to the Act, regarded as persons comparable to EU citizens.

This report discusses the provisions of the new Act. Regarding the old Act (*Ulkomaalaislaki* 378/1991), a reference is made to the report covering year 2002 and 2003.

Entry

Texts in force

Section 155 of the Aliens Act concerns EU citizens' and their family members' entry and residence. This provision recognises the right to enter the country and to reside there and lays down the preconditions for entry and residence. According to the Government Bill 28/2003, section 155 of the Aliens Act is based on Article 3.1 of the Directive 68/360/EC and Article 3 of the Directive 73/148/EC as well as on Article 18 of the EC Treaty. Furthermore, case C-68/89 *Commission v. the Netherlands* was taken into account when drafting this provision and should be taken into account when applying it in practice. According to the Government Bill, the border guard authorities must not request information on, for example, the purpose of an EU citizen's entry to Finland. In practice the entry of an EU citizen can be prevented only if she does not hold a valid passport or identity card or if the entry can be prevented on grounds of public order or security or public health.

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As provided for by *Schengen Acquis*, the third-country family members of EU nationals, who are required to have a visa to enter Finland are exempted from the fee for the visa and from the requirement concerning travel insurance. The special position of third-country family members is regularly discussed when educating the visa officials in order to guarantee the third country family members' special treatment compared with other third-country nationals.

Section 155

"EU citizens' entry into and residence in the country

An EU citizen entering or residing in the country is required to hold a valid identity card or passport. An EU citizen's family member, or other relative, who is not an EU citizen may be required to have a visa if the family member or relative is a citizen of a State whose citizens are required to have a visa under Council Regulation."

Section 156 of the Aliens Act lays down further conditions for the entry. According to this provision a person who jeopardizes public order and security or public health may be prevented from entering Finland, or if already entered, may be removed from the country. According to the Government Bill 28/2003 this provision reflects articles 39.3 and 46.1 of the EC Treaty. In this connection the Government Bill also refers to cases 41/74 *van Duyn*, 115/81 and 116/81 *Adoui* and *Cornuaille* and 30/77 *Bouchereau*, and states that these decisions should be taken into account when applying the provision. The notions of public order and security and public health should be interpreted in a restrictive manner. A citizen of another Member States may not be removed from Finland on the grounds of activities that Finnish citizens are not prohibited from doing or that are not tried to be effectively prevented. As concerns public health, the Government Bill refers to Article 4.1 of the Directive on Public Order and Security.

Section 156

"Public order and security and public health

(1) In addition to what is provided in section 155, a requirement for an EU citizen's entry into and residence in the country is that the EU citizen or his or her family members or other relatives are not considered a danger to public order and security or public health.

(2) Preventing an alien's entry into or removing an alien from the country on grounds of public order and security or public health shall be based on the alien's own behaviour and not merely on any previous convictions."

Residence

Texts in force

Section 158 of the Aliens Act concerns short term residence of EU citizens and their family members. According to the Government Bill 28/2003 this provision is based on Article 8.1 of the Directive 68/360/EC and Article 4.2 of the Directive on provision of services. It is reminded in the Government Bill that the ECJ has interpreted free movement of workers broadly. According to the Government Bill, decision C-292/89 *Atonissen* was taken into account when drafting this provision and should be taken into account when applying it in practice.

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Section 158

“EU citizens’ short-term residence

EU citizens may reside in Finland for a maximum of three months without registering their right of residence. After that period, EU citizens may reside in Finland as jobseekers for a reasonable time without registering their right of residence, if they continue to look for employment and if they have a real chance of finding employment.”

Section 159 of the Aliens Act concerns long term residence of EU citizens and their family members who are EU citizens. This provision covers all categories of EU citizens *i.e.* workers, self-employed workers, students, and all others whose residence in Finland will last for longer than three months. To reside in Finland the EU citizens and their family members and other relatives who also are Union citizens are required to register their right of residence at the alien’s register. According to the Government Bill 28/2003 this provision reflects the proposal for directive on the right of EU Citizens and their family members to freely move and reside in the area of the Member States (COM(2001) 257 final) and the practice of the ECJ. Under the old Aliens Act the EU citizens and their family members were required to hold a residence permit in order to reside in Finland.

The precondition for the right of residence for economically non-active persons is secured income. The notion of secured income is further reiterated in the Government Bill 28/2003. According to it, what constitutes sufficient financial resources for the purposes of residence shall not be defined in abstract. Under usual circumstances it is sufficient that the person herself declares that her income is secured; no proof of that shall be required. The reliability of this declaration is assessed if the person avails herself of the Finnish system of subsistence support to cover the expenses of her daily living. Sickness insurance is required if the person concerned does not, according to the Regulation 1408/71, fall within the ambit of the Finnish social security system.

Section 159

“Registering EU citizens’ right of residence

(1) EU citizens shall register their right of residence no later than the expiry of their right of residence in Finland under section 158. Registering the right of residence requires that the EU citizens meet the requirements laid down in sections 155 and 156 and that:

- 1) they are engaged in economic activity as paid employees or self-employed persons;
- 2) they have sufficient funds and, if necessary, health insurance so that they do not have to resort to social assistance provided in the Act on Social Assistance or to other comparable benefits during their residence in Finland; or
- 3) they have been admitted to an educational institution in Finland as students and have sufficient funds for their residence and, if necessary, health insurance.

(2) The right of residence of an EU citizen’s family member is registered if the family member is also an EU citizen.

(3) The right of residence of an EU citizen’s other relative is registered if the relative is also an EU citizen, and if refusing registration of the right of residence would be unreasonable because the persons concerned intend to resume their earlier close family life in Finland or because the relative is fully dependent on the relative living in Finland.

(4) Registering the right of residence of an EU citizen’s family member or other relative as referred to in subsection 1(2) or (3) requires that the family member or relative has sufficient funds for his or her residence and, if necessary, health insurance. However, the right of residence of a Nordic citizen’s family member is registered even if he or she has no secure means of support. Registering the right of residence of a Nordic citizen’s other relative

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requires that he or she has sufficient funds for his or her residence and, if necessary, health insurance.”

Section 160 of the Aliens Act concerns the effect of invalidity for work and non-attributable unemployment on EU citizens’ registered right of residence. According to the Government Bill 28/2003 this provision is based on Article 7 of the directive on free movement of workers and on the practice of the ECJ.

Section 160

“Effect of invalidity or unemployment on EU citizens’ registered right of residence

(1) In cases as referred to in section 159 (1) (1), an EU citizen’s registered right of residence remains in force even after he or she has ceased to be a paid employee or self-employed person if he or she suffers from temporary invalidity as a result of illness or accident, or if he or she has become unemployed for a reason not attributable to him or herself.

(2) The registered right of residence remains in force for two years if the unemployment continues and if the unemployment is not attributable to the EU citizen him or herself.”

Section 162 of the Aliens Act concerns a permanent residence card and section 163 exceptions to requirements for obtaining permanent residence card. These provisions apply to EU citizens and their family members and other relatives including such family members and other relatives who are not EU citizens. According to the Government Bill 28/2003 section 162 reflects the relevant EC legislation and the proposal for the Commission Directive on this issue.

For the purposes of section 162 of the Act, residing in Finland is deemed to begin at the moment when the person concerned registers her right of residence or at the moment when she makes the notice of removal, depending on which takes place earlier. The right of residence of a family member or other relative who is not a Union citizen is dependent upon the residence of the Union citizen. A precondition for issuing a permanent residence card to a family member or other relative who is not a Union citizen is that the person concerned still lives together with the Union citizen whose family member or relative she is. Students are not issued with permanent residence cards. In case the purpose of residence of a student changes, she may, however, be issued with a permanent residence card on the new ground of residence.

According to the Government Bill 28/2003 section 163 of the Aliens Act reflects Articles 2 and 3 of the Commission Regulation 1251/70/EC and Articles 2 and 3 of the Council Directive 75/34/EC.

Section 162

“Permanent residence cards

(1) Upon application, an EU citizen or his or her family member or other relative is issued with a permanent residence card after a continuous residence of four years in Finland. Residence is considered continuous if the applicant has stayed in Finland for at least half of the four-year period.

(2) A person residing in Finland for the purpose of studies is not issued with a permanent residence card.”

Section 163

“Exceptions to requirements for obtaining permanent residence cards

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(1) In a case as referred to in section 162 (1), an EU citizen is granted, upon application, a permanent right of residence and issued with a permanent residence card to prove this before the four years of continuous residence have passed if the EU citizen, as a paid employee or self-employed person:

1) has, upon termination of his or her employment, reached the age entitling him or her to old-age pension and worked or been engaged in the activity in Finland for at least the 12 months immediately preceding the termination of employment, and resided in Finland continuously for at least three years;

2) has terminated employment on grounds of permanent invalidity after living in Finland continuously for two years; or

3) after working and living in Finland continuously for three years, has moved to work in another EU Member State while still living in Finland and regularly returns to Finland daily or at least once a week.

(2) If the invalidity referred to in subsection 1(2) is due to an employment accident or occupational disease which entitles an EU citizen to statutory pension in Finland, the length of residence has no bearing on the issue of the residence card.

(3) For obtaining a permanent residence card under subsection 1(1) or (2), any periods of employment that took place in another EU Member State are also taken into consideration in the applicant's favour. Any spells of unemployment that were not attributable to the applicant and which were recorded by employment offices, or any breaks in self-employment that were not attributable to the applicant, or any absence due to illness or accident are considered as periods of employment.

(4) A person has the right to stay in the country permanently under subsections 1(1) and 1(2) and 2 within two years of obtaining this right. During the two-year period, the person may leave the country without losing his or her permanent right of residence.

(5) The requirements concerning the length of residence and employment laid down in subsection 1(1) or the length of residence in subsection 1(2) do not apply if the applicant's spouse is a Finnish citizen or has lost his or her Finnish citizenship upon marriage to the applicant.

(6) Family members of a paid employee or self-employed person who has obtained a permanent right of residence under subsection 1 or 2 have a permanent right of residence in Finland.

(7) If an employee or self-employed person dies while still in working life before obtaining a permanent right of residence in Finland under subsection 1 or 2, his or her family members residing in Finland have the right to stay in Finland permanently if:

1) the employee or self-employed person had lived in Finland continuously for two years before his or her death;

2) the employee's or self-employed person's death was due to an employment accident or occupational disease; or

3) the spouse of the deceased employee or self-employed person has lost his or her Finnish citizenship upon marriage to the employee or self-employed person."

Miscellaneous (administrative practices etc.)

In certain police districts the delay in registering the EU citizens' right of residence is up to two to three months. Taking into account the relatively low number of EU citizens registering their right of residence and the rather technical nature of the act of registration, this delay can be regarded as rather long. The sickness insurance card may be applied for and issued only after the registration of residence has been completed. The sickness insurance card

functions as a proof of the fact that the person concerned is covered by the Finnish residence based social security system and is entitled to public health care.

The notion of 'secured income' has caused some problems of application in practice. The problems relate to the evaluation of under which circumstances the income may be regarded as insecure. The practice varies between different police districts regarding situations, such as, is begging at street a sufficient sign of non-secure income. There are no court decisions concerning this issue.

Recent legal literature

Saastamoinen, Salla, Unionin kansalaisten vapaa liikkuvuus: lainsäädäntö uudistuu, *Defensor Legis* 2004/3, pp. 486-494 (Free movement of Union citizens: legislative reform)

Departure

Texts in force

Section 165 of the Aliens Act lays down the rules on cancelling registration of the right of residence and the residence card. According to the Government Bill 28/2003, before being issued a permanent residence card the person concerned has to meet continuously the conditions on which her right of residence is registered or her fixed-term residence card is issued. If she no longer meets these conditions the registration of the right of residence or the fixed-term residence card shall be revoked. Once a Union citizen and her family member or other relative has been issued with a permanent residence card the grounds for residence are no longer controlled and therefore a permanent residence card may not be revoked on the ground that the person concerned no longer meets the preconditions for residence.

Section 165

"Cancelling registration of the right of residence or a residence card

(1) The registration of the right of residence or a fixed-term residence card is cancelled if:

- 1) the person whose right of residence has been registered or who has been issued with a fixed-term residence card has permanently moved away from Finland;
- 2) the person whose right of residence has been registered or who has been issued with a fixed-term residence card has continuously resided outside Finland for two years for permanent purposes;
- 3) the requirements for registering the right of residence or issuing a fixed-term residence card no longer exist; or
- 4) the person whose right of residence has been registered or who has been issued with a fixed-term residence card is considered a danger to public order and security or public health.

(2) A permanent residence card is cancelled in cases as referred to in subsection 1(1), (2) or (4) or in a case where the applicant, upon applying for a permanent residence card, knowingly gave false information that affected the decision, or concealed a fact that would have affected the content of the decision.

(3) A person who has moved away from Finland may apply for non-cancellation of the registration of his or her right of residence or residence card within two years of moving from Finland. If the application is granted, the decision shall state the period during which cancellation is not made."

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Section 166 of the Aliens Act lays down rules of expiry of registration of the right of residence and residence card.

Section 166

“Expiry of registration of the right of residence or a residence card

The registration of the right of residence or a residence card expires if the person whose right of residence has been registered or who has been issued with a fixed-term residence card is deported or acquires Finnish citizenship.”

According to section 142 of the Aliens Act, refusal of entry means preventing an alien from entering the country at the border, or removing from the country an alien who has not yet been issued with a residence permit or residence card or whose right of residence has not yet been registered. Thus, refusal of entry may take place after the person has *de facto* entered the country and stayed there for a while.

According to section 143 of the Act deportation means removing from the country an alien who resides in the country and whose residence has been registered as provided by the Act, or who continues to reside in the country after her registered residence or residence card has expired.

Section 167 of the Aliens Act lays down the grounds for refusing EU citizens’, their family members’, and other relatives’ entry. According to the Government Bill 28/2003 the entry of a Union citizen and her family member and other relative shall be refused if she does not meet the preconditions for entry, registration of the right of residence, or issuing a residence card, or if it is found out soon after she has entered Finland that she does not possess sufficient financial resources for her stay. Secured income is a condition for the right of residence, and if a person concerned does not have sufficient financial resources for her stay, her right of residence shall be denied and therefore her entry refused.

An EU citizen and her family member should possess the required travel document and visa during her residence in Finland. When considering refusal of entry in situations where the person concerned does not possess the required documents, the unreasonableness caused by the possible refusal of entry may, however, exceptionally and for a special reason be taken into account in the consideration. It is possible to give up refusing entry if the identity of the person concerned may be ascertained by other means, provided that she does not jeopardize public order or security. The Government Bill thus confirms that the preconditions for entry are not absolute. In this connection the Bill also refers to case C-459/99 *MRAX*, and states that the Member States may not turn back at the border a person who does not possess a travel document or a visa if she is married to a citizen of another Member State and if she can prove her identity and marital status, and furthermore, if it is not established that this person would jeopardize public order or security or public health. The Government Bill also refers to case 68/89 *Commission v. the Netherlands*, according to which the Member States may not require a citizen of another Member State to establish evidence of her financial resources upon entering the country. It would, however, be possible to refuse entry of a Union citizen if she after entering the country and before registering her right of residence has to turn to social security system to the secure her income due to lack of financial resources.

Section 167

“Grounds for refusing EU citizens, their family members or other relatives entry into Finland

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EU citizens, their family members or other relatives may be refused entry into the country if their right of residence has not been registered or they have not been issued with a residence card and if they:

- 1) do not meet the requirements for entry laid down in sections 155 and 156;
- 2) have, soon after entering the country, had to resort to social assistance provided in the Act on Social Assistance or to other comparable benefits owing to the lack of sufficient funds; or
- 3) would be required to have the right of residence registered or a residence card issued to them in order to continue their residence in Finland, but they do not meet the requirements for registering the right of residence or for being issued with a residence card.”

Section 168 of the Aliens Act lays down grounds for deporting an EU citizen and her family member and other relative. The Government Bill 28/2003 refers to the Directive on public order and security and states that the measures taken on grounds of public order and security have to be based on the own behaviour of the person concerned and that, for example, an earlier crime conviction may not automatically be regarded as a ground for deportation. Furthermore, the grounds for deportation may not be appealed to for financial reasons. According to the Government Bill, the ECJ has stated in *Adoui* and *Cornuaille* and *Bouchereau* that the threat caused by the behaviour of the person to be removed has to be real and sufficiently serious to jeopardize the fundamental interests of society. When assessing the threat caused by the individual, it should be evaluated whether the Member State takes sufficient measures to prevent its own citizens from the same behaviour.

Section 168

“Grounds for deporting EU citizens, their family members and other relatives

- (1) EU citizens whose right of residence has been registered or who have been issued with a permanent residence card may be deported if the registration of their right of residence or their permanent residence card has been cancelled or if they are considered a danger to public order and security or public health.
- (2) EU citizens’ family members or other relatives who have been issued with a family member’s residence card, relative’s residence card or permanent residence card may be deported if the family members or relatives have not been issued with a new residence card, their residence card has been cancelled or they are considered a danger to public order and security or public health.”

Section 170 of the Aliens Act concerns prohibition of entry. An EU citizen may be prohibited from entering Finland for a maximum of fifteen years. According to the Government Bill 28/2003, section 170 of the Aliens Act reflects the practice of the ECJ in particular in cases 115/81 and 116/81, *Adoui* and *Cornuaille* and C-348/96 *Donatella Calfa*. According to the ECJ, a decision on refusing entry of a citizen of another Member State may not be made for indefinite period or for life. Instead, it has to be made for a fixed term not exceeding fifteen years. According to the Government Bill, an EU citizen’s entry may be prohibited only if she is removed from the country because she is deemed to jeopardize public order or security or public health. The prohibition of entry starts from the day when the decision on removing the person concerned is taken. The prohibition of entry may be abolished upon application on the basis of a change in circumstances or for important personal reasons. There is no time limit for applying the abolishment of prohibition of entry.

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Section 170

“Ordering and abolishing prohibitions of entry

- (1) If removing an EU citizen or his or her family member or other relative from the country is based on the fact that the person concerned is considered a danger to public order and security or public health, he or she may be prohibited from entering the country for a maximum of fifteen years by a decision on refusal of entry or deportation.
- (2) Upon application, a prohibition of entry may be abolished in part or in full on the basis of a change in circumstances or for important personal reasons.”

Section 171 of the Aliens Act concerns the competent authorities.

Section 171

“Competent authorities

- (1) The District Police enter a person’s right of residence in the Register of Aliens and issue a fixed-term or permanent residence card.
- (2) The District Police cancel a registered right of residence or a fixed-term or permanent residence card.
- (3) The Directorate of Immigration decides on a prohibition of entry under section 170.
- (4) The provisions of sections 151 and 152 apply to the competence of the authorities to make decisions on removal from the country.”

According to sections 151 and 152 of the Aliens Act the police have to refer the case to the Directorate of Immigration if the police are not competent to take the decision. This is the case if, for example, the person whose entry shall be refused has stayed in Finland for longer than three months.

Section 172 of the Aliens Act concerns enforcement of the decision on removing an EU citizen and her family member or other relative from Finland. According to the Government Bill 28/2003, a decision on refusing entry or deportation becomes final after 30 days have passed from the day when the decision was served to the person to be removed unless she, during this period, appeals to the administrative court. In case of appeal, the decision may not be enforced before the administrative court has decided the matter. An appeal to the Supreme Administrative Court is possible only if the Supreme Administrative Court grants a leave to appeal. The appeal to the Supreme Administrative Court does not prevent the enforcement of the decision on removal. When applying the Supreme Administrative Court for a leave to appeal the applicant may, however, apply for non-enforcement of the decision on refusing entry or deportation. Furthermore, the Supreme Administrative Court may, when considering the leave to appeal, *ex officio* make a decision on preventing the enforcement of the decision on removal. When a decision on refusing entry or deportation is connected to a matter under consideration by administrative court, the court may upon application or *ex officio* at any stage decide to prevent the enforcement of the decision.

Section 172

“Enforcing removal of EU citizens or their family members or other relatives from the country

- (1) A decision on refusal of entry may be enforced immediately regardless of any appeal unless otherwise ordered by an administrative court if the person is refused entry under section 167(1) or 169(1), and if the matter is justifiably urgent.
- (2) A decision on refusal of entry under section 167(2) or (3) may be enforced within 30 days at the earliest of the date when the decision was served on the person concerned. If a

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decision issued under section 167(3) is based on the fact that the person to whom the decision applies is considered a danger to public order and security, and the matter is justifiably urgent, the decision may be enforced immediately regardless of any appeal unless otherwise ordered by an administrative court.

(3) A decision on deportation under section 168 or 169(2) may be enforced after a final decision.

(4) The provisions of section 202 apply to a decision on refusal of entry or deportation that is enforced with the consent of the person concerned before the decision is final.

(5) When serving a decision on refusal of entry or deportation, the document served shall state the period during which the alien must leave the country. During that period, the authorities may not enforce the decision.”

Section 202 of the new Aliens Act concerns the consent of the person concerned in situations of enforcement of a decision on refusal of entry or deportation.

Section 202

“Consent to enforcement

A decision on refusal of entry or deportation may be enforced before the decision becomes final if the person refused entry or ordered to be deported gives, in the presence of two competent witnesses, his or her consent to the enforcement of the decision and signs the corresponding entry made in the decision.”

Circulars

No administrative orders or circulars are in force at the moment.

Draft legislation

No draft legislation exists.

Judicial practice

In 2004 the Administrative Court of Helsinki took several decisions concerning appeals lodged by asylum seekers who were citizens of the new Member States, that are of interest here. The Directorate of Immigration had rejected the asylum applications of the applicants and decided to refuse their entry as well as to prohibit their re-entry. In all these cases the administrative court maintained the decisions by the Directorate of Immigration concerning the asylum applications and refusal of entry. However, the decisions on prohibition of entry were overruled by the court on the ground that the appellants were EU citizens and the prohibition of entry was in this situation not well-founded.

The grounds for removing an EU citizen from Finland were applied by the Administrative Court of Helsinki in a rather problematic manner in its Decision 00756/04/9400 of 20.8.2004 and Decision 02296/04/9400 of 19.10.2004. Both of these decisions concerned cases in which the Directorate of Immigration had refused the entry of a citizen of a new Member State on the ground that she had offered sexual services in Finland. The court did not overrule the decisions by the Directorate of Immigration on refusing entry even though the court took its decisions after the states the citizens of which the appellants were, had joined the EU and the appellants thereby become EU citizens and therefore eligible for freedom of movement. These decisions by the Administrative Court of Helsinki were problematic in the light of the requirements following from the EC law as prostitution is not prohibited in Finland and the authorities don't take effective measures to prevent the phenomenon.

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Decision 0839/04/9400 of 19.10.2004 by the Administrative Court of Helsinki is also of interest. The Directorate of Immigration had refused the entry of a citizen of a new Member State, who had previously worked in Finland as an erotic dancer without a work permit. The ground for refusing the entry was that it was presumed that the person concerned would again work as an erotic dancer – which however is not illegal in Finland. The Administrative Court of Helsinki did not overrule the decision by the Directorate of Immigration even though the court decided the case after the state the citizen of which the person concerned was, had joined the EU and the appellant thereby become an EU citizen and therefore eligible for freedom of movement.

Decision 02833/04/9400 of 17.12.2004 by the Administrative Court of Helsinki, too, concerned refusal of entry of an EU citizen. In this case the entry of a citizen of a new Member State had been refused on the ground that he had previously been convicted of assault and because he did not give correct information concerning the purpose of his trip when trying to enter in Finland. The decision was not overruled by the Administrative Court of Helsinki; the court held that the fact that the appellant had previously been convicted of assault proved that he jeopardized public order and security. Therefore, in this case, too, the notion of jeopardy to public order and security was applied in a rather problematic manner.

The decision 696/3/04 of 21.9.2004 by the Supreme Administrative Court concerned refusal of entry of a citizen of a new Member State and has because of its precedential nature special significance for the subsequent practice. The Directorate of Immigration had deported the appellant and prohibited his entry to Finland and to the other Schengen states for five years on the ground that he had been found guilty of a crime the minimum punishment of which was one year's prison sentence, and of certain other less serious crimes, and because he had resided in Finland without a residence permit. The decision by the Directorate of Immigration was maintained by the administrative court. Both the decision by the Directorate of Immigration and the decision by the administrative court were taken before the state, a citizen of which the appellant was, had joined the EU. The appellant was granted a leave to appeal to the Supreme Administrative Court. The Supreme Administrative Court gave its decision on 21.9.2004 *i.e.* after the appellant had become an EU citizen. Therefore the Supreme Administrative Court applied the EC rules on free movement of EU citizens. In its decision the Court referred in particular to cases 30/77 *Bouchereau* and C-482/01 and C-493/01 *Orfanopoulos*, and argued that according to these cases the jeopardy to the fundamental interests of the society caused by the behaviour of the person concerned has to be real and sufficiently serious in order to justify restricting her freedom of movement. A crime conviction may be a ground for refusing entry or deportation of an EU citizen only if the circumstances related to the conviction indicate that her behaviour still jeopardizes public order. In the light of this the Supreme Administrative Court repealed the decisions by the administrative court and the Directorate of Immigration, and returned the case to the Directorate of Immigration.

Decision 07054/03/9300 of 1.7.2004 by the Administrative Court of Helsinki concerned a citizen of an old Member State. This decision indicates that problems in applying the EC rules on freedom of movement still persist in what comes to the treatment of the citizens of the old Member States, as well. The appellant had resided in Finland in 1994-1999 by virtue of a residence permit. The appellant's permit had not been renewed after it had lapsed in 1999, because he did not possess sufficient financial resources for his stay. In 2004 the Directorate of Immigration took a decision on deporting the appellant and prohibiting him from entering in Finland for five years on the ground that he did not possess a residence permit

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and that he had been convicted of three assaults while residing in Finland. The Administrative Court of Helsinki maintained the decision by the Directorate of Immigration. A dissenting judge, however, correctly held that the decision by the Directorate of Immigration should have been overruled as nothing in the case indicated that the appellant still jeopardized public order and security, and the fact that the person concerned did not possess a residence permit was not a sufficient ground for limiting his freedom of movement.

Miscellaneous

It appears that there is a tendency among the competent administrative and judicial authorities to interpret the concepts of 'public order and security' rather extensively and thereby in a manner not in conformity with the Community rules (see also the report 2002-2003 concerning Finland). One reason for the persistent problems pertaining to this issue may be the rather weak and not sufficiently covering implementation of the Community rules, in particular principles expressed in case law of the ECJ, concerning expulsion of EU citizens.

Chapter II Equality of Treatment

Compared with the period of 2002-2003, no significant developments have taken place in the year 2004 in the field of equality of treatment.

Texts in force

There are no specific provisions in the legislation concerning equality of treatment and prohibition of discrimination of EU citizens. Equality of treatment and prohibition of discrimination of EU citizens is guaranteed by general legislation on equality and non-discrimination. The following provisions are particularly relevant in this respect.

Section 6 of the Finnish Constitution recognises the general right to equality and lays down prohibition of discrimination.

Finnish Constitution 6 §

“Equality

Everyone is equal before the law.

No one shall, without an acceptable reason be treated differently from other persons on the grounds of sex, age, origin, language, religion, conviction, opinion, state of health, disability or other reason that concerns his or her person.

Children shall be treated equally and as individuals and they shall be allowed to influence matters pertaining to themselves to a degree corresponding to their level of development.

Equality of the sexes is promoted in societal activity and working life, especially in the determination of pay and the other terms of employment as provided in more detail by an Act.”

Section 2 of Chapter 2 of the Act on Employment Contract prohibits discrimination at labour market.

Act on Employment Contract (Työsopimuslaki 55/2001), Chapter 2, 2 §

“Non-discrimination and Equality of Treatment

The employer may not without an acceptable reason treat employees differently on the grounds of age, state of health, disability, national or ethnic origin, nationality, sexual orientation, language, religion, opinion, conviction, family relationship, activities in trade union, political opinion and acts, or other comparable reason.

Prohibition of discrimination based on gender is laid down in the Act on Equality between Women and Men. The Act on Equality contains the definition of discrimination, the prohibition of counter acts and the rules concerning the burden of proof in cases concerning discrimination.

Those working under fixed-term contract or part-time may not, without an acceptable reason, be treated differently from other employees solely on the ground of the fixed duration of the employment contract or short working hours.

The employer has to treat the employees equally unless there are good reasons related to the tasks or the position in the organisation to make an exception to this.

The employer has to obey the prohibition of discrimination laid down in section 1 when hiring workers.”

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Section 3 of Chapter 47 of Criminal Code criminalises discrimination at work.

Criminal Code (Rikoslaki 39/1889), Chapter 47, 3 §

“Discrimination at Work

Employer or her representative, who when announcing a vacant job, hiring new workers, or during the employment without a weighty acceptable reason treats an applicant or an employee differently from others on the ground of her 1)race, national or ethnic origin, colour, language, sex, age, family relationship, sexual orientation or state of health or 2)religion, opinion, political activities or activities in trade union or other comparable ground, shall be convicted for discrimination at work to fine or prison sentence for maximum duration of six months.”

Act on Equality

The Act on Equality (*Yhdenvertaisuuslaki* 21/2004 entered into force 1.2.2004) the purpose of which is to promote equality and prevent discrimination based on age, ethnic or national origin, nationality, language, religion, conviction, opinion, state of health, handicap, sexual orientation or other ground, may have influence in the treatment of Union citizens even though its scope is broader than prevention of discrimination solely on the grounds of nationality. The Act on Equality implements the Council Directive 2000/43/EC and Council Directive 2000/78/EC.

Chapter III Employment in the Public Sector

The new legislation on language proficiency required from the personnel of the public sector entered into force in the beginning of January 2004. This legislative reform had impact on the treatment of EU citizens in the area of employment in the public sector. Compared with the old legislation, the new legislation is better in line with the requirements following from the EC law because the requirements concerning linguistic capacity are not as strict as they used to be and because there is more flexibility in how the linguistic proficiency can be proved. Still, however, the requirements concerning proficiency in national languages Finnish and Swedish languages arguably continue to impede the access of the citizens of the other Member States the Finnish public sector.

Texts in Force

Requirements concerning Finnish citizenship

In 2004 no significant developments took place regarding the requirements concerning Finnish citizenship.

Most public offices were formally opened also to persons who are not Finnish citizens in 1989. Exceptions to this rule are laid down in the Finnish Constitution and in the Act on Public Offices.

Finnish Constitution

According to section 25 and 26 of the Finnish Constitution only a Finnish citizen may be elected as a Member of Parliament. Furthermore, according to section 54 of the Constitution the President of the Republic shall be a native-born Finnish citizen. According to section 60 of the Constitution the Ministers shall be Finnish citizens.

Furthermore, according to section 125 sub-section 1 of the Constitution “it may be stated in an Act that only Finnish citizens are eligible for appointment to certain public offices or duties”. According to the Committee Report 1997:13 concerning the Finnish Constitution, Finnish citizenship may be required only in exceptional cases. Therefore, according to the main rule the public sector is open for persons who are not Finnish citizens.

The Act on Public Offices

Section 7, sub-section 1 of the Act on Public Offices contains an exhaustive list of public offices to which may be appointed only a Finnish citizen. According to the Government Bill to the Parliament for the Act on Public Offices (Hallituksen esitys Eduskunnalle valtion virkamieslaiksi ja laiksi valtion virkaehtosopimuslain muuttamisesta HE 291/1993 vp), this provision is compatible with the requirements laid down in the EEA Treaty.

The Act on Public Offices (Virkamieslaki 750/1994), 7 § 1

“Only a Finnish citizen may be appointed to following offices:

- 1) Chancellor of Justice, Deputy Chancellor of Justice, and Chief Secretary, Assistant Chief Secretary and department head at the Office of the Chancellor of Justice;
- 2) office of the Secretary of State, Chief Secretary of the Secretary of State, Head of Government Office, department head of Government Office, office manager, and other comparable or higher office;
- 3) office at the foreign service;

- 4) office of judge;
- 5) office of head of civil service department excluding rectors of universities;
- 6) office of county governor, department head of county administrative board, and head of preparedness;
- 7) office that includes tasks of public prosecutor or distrainer;
- 8) office of police within the meaning of the Act on Police (493/1995);
- 9) office, whose holder is a member of a prison board;
- 10) office at the Ministry of Defence and Armed Forces as well as Border Guard Detachment;
- 11) office other than policeman at Security Police;
- 12) office at the Customs to which appertains right to arrest as well as office at the Customs to which appertains duties concerning supervising and securing the territorial integrity of Finland or duties concerning investigation and supervision of crimes;
- 13) office of the Head of the Public Unit of the Civil Aviation Administration; as well as
- 14) office of the Head of Maritime Safety of the Finnish Maritime Administration.”

Section 11 of the Act on Public Offices lays down the obligation of equal treatment and the prohibition of discrimination based, among other grounds, on nationality.

The Act on Public Offices 11 §

“Public authorities have to treat civil servants equally so that no one is without an acceptable reason treated differently from other persons on the grounds of ethnic and other origin, nationality, sex, religion, conviction, disability, age, political activities or activities in trade union or other comparable reason. The Act on Equality contains provisions on the definition of discrimination, the prohibition of counter acts, and the rules concerning the burden of proof in cases concerning discrimination.”

By and large the list of offices to which may be appointed only Finnish citizens is in line with the requirements following from the EC law; the posts enlisted relate to exercise of public power.

Recognition of diplomas for access to the public sector

In 2004 no significant developments took place regarding the rules and practices on recognition of diplomas for access to the public sector.

The Act on Implementing the EC System of Recognition of Diplomas (*Laki Euroopan yhteisön yleisen tutkintojen tunnustamisjärjestelmän voimaannpanosta 1597/1994*) and the Decree Implementing the EC System of Recognition of Diplomas (*Asetus Euroopan yhteisön yleisen tutkintojen tunnustamisjärjestelmän voimaannpanosta 520/1997*) lay down the general provisions on recognition of diplomas.³

Recognition of diplomas is always based on individual applications. Decisions concerning general correspondences between Finnish diplomas and diplomas of other Member States are not taken and there are thus no lists of such general correspondences. Recognition shall be applied from the National Board of Education. The decisions on recognition are always made on a case by case basis. The individual decision on recognition of a particular

3 The text of the Act and the Decree may be found at <http://www.oph.fi>.

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diploma is, however, general so that the recognition is not bound to any particular post the applicant has applied or is going to apply for.

A decision on recognition confers the applicant the eligibility to apply for a post or position in the public sector after the completion of any supplementary study requirements or other requirements the decision may have been subjected to. The decision of recognition fulfils the qualification requirements only for the part of the qualification; posts or positions in the public sector may also be subjected to other requirements, such as language proficiency skills.

When processing the applications, the National Board of Education assesses the level and scope of education on the basis of qualification certificates. If necessary, the National Board of Education obtains a statement from a Finnish university or the authorities of the country in which the qualification has been completed. The point of departure is the situation in the country where the diploma was obtained. The main requirement for a foreign qualification to be recognised in Finland is that the qualification is an official qualification of higher education in the country where it was completed in and that the higher education institution is legally recognised by the authorities of that country. If the diploma qualifies for public posts and positions of certain level in the country where the diploma was obtained, it shall qualify also in Finland for public posts and positions at the equivalent level. However, if there are significant differences between the diploma in question and the Finnish diploma required, work experience or a particular exam shall be required as additional requirement in order to get the diploma recognised.

The negative decisions on recognition of diplomas may be appealed to the administrative court, which, however, happens only in rare cases. When the National Board of Education anticipates that it would give a negative decision on the application, it always offers the applicant an opportunity to withdraw the application and thereby to be exempted from the fee. In this kind of situations most applicants end up withdrawing their application. In most cases in which the decision by the National Board of Education would be negative, the reason for that is that the diploma is taken in an educational institution that has no official status in the state where it is established and is therefore not entitled to issue diplomas recognised as official in that Member State.

According to the Act Implementing the EC System of Recognition of Diplomas the decisions on recognition must be made in four months. Currently the fee for the decision is 178 e.

Between 1997 and 2003, 757 applications were lodged to the National Board of Education for recognising diplomas taken in other EU Member States. 233 of these diplomas were taken in United Kingdom, 207 in Sweden, 118 in Germany, 64 in France and 23 in the Netherlands. 198 of the applicants were citizens of other EU states than Finland (<http://www.oph.fi>).

Reliable figures on the recognition rates can not be given as, for the reasons stated above, negative decisions are only seldom given.

The citizens of Nordic countries do not need a decision of recognition of a diploma for eligibility to posts or positions in the public sector if the diploma has been taken in a Nordic country and the main content of that diploma can be shown to be comparable with a corresponding Finnish diploma (Act 651/1998).

Obligation to participate in a competition which gives access to a training and to a post in the public sector

Compared with the situation in 2002-2003 no developments have taken place in this respect: in Finland there are no competitions giving access to a training and afterwards to a post in the public sector. Anyone meeting the formal recruitment criterion concerning education and language proficiency required for a particular post may apply and be nominated to the post in question.

Recognition of professional experience and seniority acquired in another Member State

Compared with the situation in 2002-2003 no developments have taken place in this respect. There are no specific rules on taking into account of professional experience and seniority for the purposes of access to the public sector or for the purposes of the determination of professional advantages. The discretion concerning professional competence is open so that all relevant matters contributing to the professional competence may be taking into account. In this discretion professional experience and seniority acquired in another Member State should be taken into account in a similar manner as experience and seniority acquired in Finland.

There is no judicial practice concerning this issue.

Requirements concerning language proficiency

New legislation on language proficiency entered into force in the beginning of 2004. The main object of the Act on Languages (*Kielilaki* 423/2003, English translation at: <http://www.finlex.fi/pdf/saadkaan/E0030423.PDF>) and the Act on Language Proficiency Required from Personnel of Public Authorities (*Laki julkisyhteisöjen henkilöstöltä vaadittavasta kielitaidosta* 424/2003, Finnish text at <http://www.finlex.fi>) is to strengthen the position of the national languages, Finnish and Swedish, and the right to use one's own language at the public sector, including private actors committing public functions.

Compared with the old regulations concerning language proficiency, the current legislation appears to be better in line with the requirements following from the EC law. According to Section 6 of the Act on Language Proficiency Required from Personnel of Public Authorities, for public offices for which a recruitment criterion is a university degree, the required level of language proficiency in the majority language is *excellent oral and written skills* and in minority language *satisfactory oral and written skills*. Under the previous act the required level of language proficiency in the majority language was *perfect command*. Furthermore, according to section 14 of this same Act the Board on Language Exams may, upon application, issue a certificate on excellent command of Finnish or Swedish language to a person who can show that she has reached excellent language proficiency by other means than those specified in the Decree, *i.e.* national language tests and certificate showing that the person concerned has completed her education and passed a maturity test at a Finnish university in a given language. Therefore, according to the new Act, the Board on Language Exams may, upon application, decide that language studies completed abroad may be equated with official Finnish exams. According to the Bill of Government to the Parliament concerning the

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Act on Languages and other related legislation (*Hallituksen eistys kielilainsiksi ja muuksi siihen liittyväksi lainsäädännöksi 9/2002*), in particular this flexibility in proving the command of languages reflects the requirements following from the EC law and brings the legislation better in line with them.

The general legislation on languages does not apply to the universities, to the Evangelic Lutheran Church and to the Orthodox Church. These institutions are covered by special legislation in what concern language proficiency of their personnel.

Even despite of the positive developments that have taken place regarding requirements concerning language proficiency, the Finnish system may arguably still be criticised as rather rigid and the requirements concerning language proficiency most probably continue to constitute a potential hurdle for the access to the public sector. The requirements concerning linguistic competence are bound to the recruitment criteria (for example university degree) and not, for example, to the post and tasks in question, which would be a more flexible approach. It is not very common that citizens of the other Member States apply for open posts in the Finnish public sector. It is, however, difficult to estimate whether the situation would be different if the language requirements were less rigid.

Recent legal literature, reports, etc.

Opetushallitus (2004), *Ulkomailla suoritettujen tutkintojen tunnustaminen Suomessa* (National Board of Education: Recognition of diplomas taken in other countries)

Chapter IV Members of the Family

Texts in force

The new Aliens Act had impact on the treatment of EU citizens' family members and other relatives. According to the new Act, the right of residence of EU citizens' family member or other relative who is an EU citizen is registered at the Aliens register. An EU citizens' family member or other relative who is not an EU citizen is upon application issued with a residence card. The treatment of family members who are citizens of the other Nordic countries differs from the treatment of the family members in other cases; in case of Nordic family members there is, for example, no requirement concerning secured income.

The notion of a family member is defined in section 154 of the Aliens Act. According to this provision, persons of the same sex in a registered partnership and persons living continuously in a marriage-like relationship within the same household regardless of their sex are regarded as a family.

Section 154:

"EU citizens' family members

(1) An EU citizens' family members are his or her:

- 1) spouse;
- 2) children under 21 of age or dependent on him or her;
- 3) parents dependent on him or her;
- 4) spouse's children who are under 21 years of age or dependent on the spouse;
- 5) spouse's parents who are dependent on the spouse.

(2) If an EU citizen residing in Finland is a minor, his or her parent or guardian is a family member.

(3) When this Act is applied, persons of the same sex in a registered partnership are comparable to a married couple. Furthermore, persons living continuously in a marriage-like relationship within the same household regardless of their sex are comparable to a married couple."

Subsections 2, 3 and 4 of section 159 of the Aliens Act lay down the rules on registering the right of residence of EU citizen's family members and other relatives, who are EU citizens. Regarding the right of residence of other relatives, according to the Government Bill 28/2003, the person concerned shall be considered to be fully dependent on her relative residing in Finland if they lived in the same household before the other of them moved to Finland, if their separation from each other was due to compelling reasons, and furthermore, if their dependency has continued even after the other of them moved to Finland. If the persons concerned did not live together before one of them moved to Finland, it is required that there has occurred a compelling change in the circumstances and that because of this the relative is no longer able to live without the person residing in Finland. According to the Government Bill, this dependency should not be merely financial but instead caused by the state of health or age. It is further required that there is no one in the country of origin to take care of the person concerned and that she does not manage her daily life without the relative living in Finland. In cases in which the persons concerned would continue their established family life they shall not be required to be fully dependent on each other. In this kind of cases attention

shall be laid among other things to reasons that caused the end of the family life and to how the persons concerned have maintained their relationship during their separation.

According to the Government Bill 28/2003, the income of the family members and other relatives of workers or of self-employed persons shall be regarded to be sufficiently secured by the wage of the worker or the economic activities of the self-employed person. The income of the family members and other relatives of a person who is not involved in economic activities has to be guaranteed by other means. Any proof of the secured income shall, however, not be required. The right of residence may, however, be revoked if the person concerned has to avail herself continuously of the Finnish social security to cover the expenses of her daily living.

The treatment of the family members of the citizens of the other Nordic countries differs from the treatment of the family members of the other EU citizens. The income of a family member of a citizen of another Nordic country does not have to be secured. According to the Nordic Treaty on Social Services (*Pohjoismainen sosiaalipalvelusopimus*, SopS 69/1996) a citizen of another Nordic country shall not be returned to her country of origin even if she is in need of social services or subsistence support in her country of residence, if her family situation is such that it requires staying in that country. This provision is applied also to family members of citizens of the other Nordic countries, including such family members who are not EU citizens.

Section 159

“Registering EU citizens’ right of residence

(1) EU citizens shall register their right of residence no later than the expiry of their right of residence in Finland under section 158. Registering the right of residence requires that the EU citizens meet the requirements laid down in sections 155 and 156 and that:

- 1) they are engaged in economic activity as paid employees or self-employed persons;
- 2) they have sufficient funds and, if necessary, health insurance so that they do not have to resort to social assistance provided in the Act on Social Assistance or to other comparable benefits during their residence in Finland; or
- 3) they have been admitted to an educational institution in Finland as students and have sufficient funds for their residence and, if necessary, health insurance.

(2) The right of residence of an EU citizen’s family member is registered if the family member is also an EU citizen.

(3) The right of residence of an EU citizen’s other relative is registered if the relative is also an EU citizen, and if refusing registration of the right of residence would be unreasonable because the persons concerned intend to resume their earlier close family life in Finland or because the relative is fully dependent on the relative living in Finland.

(4) Registering the right of residence of an EU citizen’s family member or other relative as referred to in subsection 1(2) or (3) requires that the family member or relative has sufficient funds for his or her residence and, if necessary, health insurance. However, the right of residence of a Nordic citizen’s family member is registered even if he or she has no secure means of support. Registering the right of residence of a Nordic citizen’s other relative requires that he or she has sufficient funds for his or her residence and, if necessary, health insurance.”

The treatment of such family members and other relatives of EU citizens, who themselves are not EU citizens differs from the treatment of those family members who are EU citizens. The non-citizen family members and other relatives are issued with a residence card under section 161 of the Aliens Act. According to the Government Bill 28/2003, the right of resi-

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dence of a family member and other relative is dependent upon the right of residence of the person already residing in Finland. This person, who is an EU citizen or comparable, should meet the preconditions for registering her right of residence, and furthermore, if she is not working, should possess sufficient financial resources for her stay and to have a sickness insurance. The income of the family member or other relative should, too, be secured. A further precondition for issuing a permanent residence card to a family member or other relative who is not an EU citizen is that the person concerned lives together with the EU citizen whose family member or relative she is. According to the Government Bill, a family member or other relative of an EU citizen is issued with a residence card that is valid for five years. The validity of the permit is however dependent on the residence of the family member who is an EU citizen. If the residence of the applicant or the family member who is an EU citizen is estimated to last for a shorter period than one year the residence card may be issued for the estimated duration of the residence.

Section 161

“Family members’ and relatives’ residence cards

(1) Upon application, EU citizens’ family members who are not EU citizens are issued with a family member’s residence card if the sponsor meets the requirements laid down in sections 155 and 156 and section 157(3) or 159(1).

(2) Upon application, EU citizens’ other relatives who are not EU citizens are issued with a relative’s residence card if the sponsor meets the requirements provided in sections 155 and 156 and section 157(3) or 159(1), and if refusing the relative’s right of residence would be unreasonable because the persons concerned intend to resume their earlier close family life in Finland or because the relative is fully dependent on the sponsor.

(3) A further requirement for an EU citizen’s family member or other relative as referred to in section 159 (1)(2) or (1)(3) is that the family member or other relative has sufficient funds for his or her residence and, if necessary, health insurance. A residence card is issued to a Nordic citizen’s family member even if the family member has no secure means of support. The requirement for issuing a residence card to a Nordic citizen’s other relative is that the relative has sufficient funds for his or her residence and, if necessary, health insurance.

(4) A residence card for an EU citizen’s family member or other relative is issued for a period of five years unless the right of residence is requested for a shorter period. However, if the residence is estimated to last for a shorter period than one year, the residence card may be issued for the estimated length of residence.”

Permanent residence is under section 162 of the Aliens Act available for both those family members who are EU citizens and for third-country family members provided that the conditions laid down in the provision are met.

In addition to these provisions the following provisions already stated above apply to family members of Union citizens: Aliens Act 155 § and 156 § concerning entry, Aliens Act 162 § and 163 § concerning residence, and Aliens Act 165 §, 166 §, 167 §, 168 § 170 §, 171 § and 172 § concerning departure.

Miscellaneous (administrative practices etc.)

The bureaucratic obstacles for issuing a residence card for third-country national family members are not any greater than registration of EU citizens’ right of residence; the applications for residence card are examined in a similar manner than the applications of registra-

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tion of right of residence. In case residence cards there is, however, a slight delay that is caused by the preparation of the card. Both the applications for EU citizen's registration of right of residence and the applications for third country family member's residence permit card are handled as urgent compared to applications for regular residence permits.

Chapter V

Relevance/influence/follow-up of recent Court of Justice judgements

In general, the landmark judgments of the ECJ are taken into account in the legislative reforms. This is exemplified by the new Aliens Act and the Government Bill 28/2003 concerning the new Act. The Government Bill makes several references to judgments by the ECJ that had influence on drafting the new Act. For example, the Bill refers to case C-459/99 *MRAX* when discussing the preconditions for entry of EU citizens' family members who are not EU citizens. In addition to this, the practice of the ECJ is followed by the Immigration Department of the Ministry of the Interior, the Directorate of Immigration and other relevant bodies such as the administrative courts, and the decisions are taken into account in the policy making and administrative and judicial practice.

In this report the relevant practice of the ECJ is discussed in connection to the substance matter.

Chapter VI

Policies of a General Nature with Possible Repercussions on the Free Movement of Union Citizens

Treatment of the citizens of the other Nordic Countries

Due to various agreements and historical arrangements between the Nordic countries special arrangements apply to the entry to, residence in, and departure from Finland of the citizens of the other Nordic countries. In 2004 no significant developments took place in this area.

According to the Aliens Act, the citizens of the other Nordic Countries are not under obligation to register their right of residence and they are not required to have a residence card. Furthermore, according to the Government Bill 28/2003, a citizen of another Nordic country may prove her identity and citizenship also by a document that is not valid as a travel document, or by other reliable means. If the person concerned is not able to prove her identity by an identity document or by other such means, the Finnish authorities may, for instance, contact the authorities of the country whose citizen the person concerned claims to be in order to confirm her identity and nationality. This provision is based on various treaties concluded by Denmark, Finland, Norway and Sweden and joined by Iceland (SopS 17/1954 and SopS 39 and 40/1983) (See Annex I).

Section 157

“Nordic citizens’ entry into and residence in the country

- (1) Citizens of Iceland, Norway, Sweden and Denmark have the right to enter the country direct from any of these States without a passport and to reside in Finland without registering their right of residence or holding a permanent residence card.
- (2) Citizens of Iceland, Norway, Sweden and Denmark shall be able to prove their identity and citizenship in a reliable way.
- (3) Nordic citizens entering the country for a purpose other than short-term residence shall register their residence by submitting an Inter-Nordic Migration Form as provided in section 3 of the Municipality of Residence Decree (351/1994).”

Section 169

“Grounds for refusing Nordic citizens entry into or deporting Nordic citizens from the country

- (1) Citizens of Iceland, Norway, Sweden and Denmark whose move to Finland has not been registered under an Inter-Nordic Migration Form may be refused entry if they are considered a danger to public order and security or public health.
- (2) Citizens of Iceland, Norway, Sweden and Denmark whose move to Finland has been registered under an Inter-Nordic Migration Form may be deported if they are considered a danger to public order and security or public health.”

Integration of immigrants

The Act on Integration of Immigrants and Reception of Asylum Seekers (*Laki maahanmuuttajien kotouttamisesta ja turvapaikanhakijoiden vastaanotosta* 493/1999) covers, along with the other immigrants, also EU citizens and their family members and other relatives who meet the preconditions laid down in the Act. According to the Act on integration, an immi-

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grant who has moved to Finland after the 1st of May 1997, who has been entered in the population data system of her home municipality, and who is eligible for labour market subsidy and/or social assistance is entitled to a personal integration plan. Subsistence during the plan period is secured with integration assistance. For example EU citizens' family members and other relatives who live in Finland permanently and who are registered as job-seekers may fall within the scope of application of the Act on Integration provided that the other preconditions laid down in the Act are met.

The integration plan is drawn up after the immigrant has been entered in the population register as a permanent resident in Finland. The maximum plan period is three years. The plan is drawn up by the immigrant herself, the employment consultant, and where necessary a representative of the municipality. The integration plan includes an agreement on the measures taken to help the immigrant enter into the Finnish society and working life. These measures include courses in Finnish or Swedish languages. Furthermore, the plan period involves an assessment on how qualifications or degrees taken outside Finland can be made to meet the requirements set by Finnish working life and what kind of supplementary training may be needed.

Participation to integration measures is not compulsory and access to integration plan is thus optional.

Tax aspects

Regarding the tax aspects of freedom of movement, the interim decision 714/2/03 of the Supreme Administrative Court is of interest here. The Court asked for a preliminary ruling from the ECJ concerning a case in which a Finnish citizen who resided in another Member State was taxed more heavily than he would have been taxed for the same income if he had lived in Finland. The person concerned was a pensioner and his pension was taxed in Finland. The tax at the source of the income was heavier than had been the regular tax that would have been imposed if the person concerned had lived in Finland. The Supreme Administrative Court asked the ECJ the following questions:

1. Should Article 18 or/and 39 of the EC Treaty be interpreted so that it/they prohibit national legislation according to which the tax at the source of the income imposed on a citizen of a Member State, who lives in another Member State and is liable to pay taxes to the first Member State for the income in question, is heavier than the tax that would be imposed on the person if he lived in the first Member State.
2. Should the Directive 90/365/EC be interpreted so that it prohibits the national legislation described above.

This case is still pending at the Supreme Administrative Court as the ECJ has not yet given its preliminary ruling.

Portability of university grants

It is possible to get financial help for studies that take place outside Finland if they correspond to Finnish studies that would be covered by the student financial aid provisions or form part of a Finnish degree programme.

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Financial aid for a course of study which is conducted entirely outside Finland is only available for Finnish citizens and for citizens of other EU/EEA citizens and for citizen of Switzerland and their family members. Applicants must have been resident in Finland for at least two years within the five years preceding the course of study. Further requirements which apply to citizens of EU/EEA countries and to citizens of Switzerland are that they are working in Finland and the intended course of study is closely linked to their job or that they are unwillingly unemployed.

For those studying outside Finland, the study grant is paid at the same rate as it would be in Finland. The exception to this main rule is that the grant for studies at a foreign vocational training institute is equal to the grant provided to students attending a higher education institute in Finland. The grant for studies at a Finnish vocational training institute is lower than the grant for Finnish higher education institute. Housing supplement and the government guarantee for student loans are also available for studies abroad. The Act on Study Grants (*opintotukilaki 65/1994*) concerns the university grants and their portability.

Chapter VII EU Enlargement

The Act on the Prerequisites for Gainful Employment of the Citizens of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia (*Laki Tsekin, Viron, Latvian, Liettuan, Unkarin, Puolan, Slovenian ja Slovakian kansalaisten ansiotyön edellytyksistä* 309/2004, English version at <http://www.mol.fi/finnwork/en/trans.pdf>) lays down the prerequisites for gainful employment in Finland for the citizens of the new Member States except of Cyprus and Malta. There is a transitional period of two years for citizens of the Member States covered by the Act for the access to the Finnish labour market. During this transitional period the citizens of the states concerned can, with some exceptions, be engaged in gainful employment in Finland only if the employment office issues a decision approving the matter. The employment office may issue a permit if it considers that the vacancy in question can not be filled by persons already present at the Finnish labour market. As persons already at the Finnish labour market are counted the citizens of Finland and the old Member States, as well as citizens of third countries, who have a right to work in Finland. The decisions by the employment office approving the access to the Finnish labour market are bound to a particular branch and not to a particular post. Therefore, it is possible to change jobs within the branch in question even without applying for a new permit from the employment office. Changing branches requires a new permit.

The Act on transitional measures is not applied in situations in which a citizen of a new Member State, who had been issued with a permit to reside and to work in Finland for at least 12 months and who was working in Finland when the Act entered into force, provided that she has not left the Finnish labour market. Furthermore, the Act is not applied to the citizens of new Member States, who have, after the entry into force of the Act on transitional measures, been granted a right to reside and to work in Finland for at least 12 months and who still are involved in the Finnish labour market. In additions to these situations, the Act is not applied in situations in which the person concerned would have a right to work in Finland without the permission of the employment office if she was a citizen of a non-EU state; the person concerned has a right of residence in Finland on some other ground than working (for example family members); and in situations in which the person concerned is working in Finland as a posted or hired worker within the framework of freedom of services and her employee is established in a new Member State.

The decision on continuing or discontinuing the transitional measures after the two year period will be made during the second year of the transitional period. At the moment it is still too early to say whether the transitional period will be continued or not. The transitional measures are opposed rather widely in Finland. The credibility of the whole system is considered to be compromised by the fact that the measures do not apply to movement of workers within the framework of freedom of services. Because of this the citizens of the new Member States may enter the Finnish labour market through agencies that are established in the other Member State and that post or hire work force to Finland. The exact number of posted or hired workers is difficult to estimate, the estimations vary between 5000 and 10 000 persons. In case of posted and hired workers the supervision of the conditions for work is problematic; it is alleged that, for example, the wages paid in these situations are often remarkably lower than in regular employer – employee –relationships in Finland and that the working hours are longer, and that other problems, too, exist in what comes to the conditions for work. When adopting the Act on transitional period the Parliament anticipated problems

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in this respect and expressed its concern concerning the treatment of posted and hired workers and required that the Government should prepare as soon as possible measures to supervise the working conditions in this kind of situations. In 2005 eight new posts for inspectors were founded for the purpose of supervising the situation. On the other hand, even despite of these problems, the transitional measures are regarded as better than nothing; it is afraid that without the Act on transitional measures the situation would be even less in control.

The treatment of the citizens of the new Member States differs from the treatment of the citizens of the old Member States only in what comes to the access to the labour market; otherwise the same legal provisions concern both the citizens of the new and the old Member States. This applies to, for example, provisions concerning entry, residence and departure under the Aliens Act, and provisions concerning working conditions etc. under the labour legislation.

As the statistics below show, the majority of the persons admitted to the Finnish labour market under the Act on transitional measures are Estonian citizens. This reflects the fact that Estonian nationals apply for employment in Finland in greater numbers than the nationals of the other new Member States. The main reasons for this are the country's geographic proximity and in particular the fact that among Estonians it is relatively common to command the Finnish language. The number of Estonian citizens in the Finnish labour market was relatively high even before Estonian's EU membership. The majority of the citizens of the new Member States are employed in low-skilled jobs.

Decisions by labour offices under the Act on the Prerequisites for Gainful Employment of the Citizens of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia

Positive decisions according to the country (May – December 2004)

	Estonia	Poland	Latvia	Hungary	Lithuania	Slovakia	Slovenia	Czech	Total
Gardening workers	169	54	17	2	28	0	0	0	270
Farm workers	145	9	36	1	4	0	0	0	195
Construction workers	161	0	7	0	5	0	0	0	173
Cleaners	132	8	7	1	0	0	0	1	149
Lorry etc. drivers	112	0	0	0	0	0	0	0	112
Animal husbandry	98	7	2	0	2	0	0	0	109
Musicians	21	0	0	28	0	19	18	2	88
Phycisians	78	3	0	2	1	0	0	0	84
Carpenters	71	1	2	0	0	0	0	0	74
Buss etc. drivers	45	0	0	0	0	0	0	0	45
Other house building	34	1	0	0	0	0	0	0	35
Others	582	46	37	21	21	3	1	8	719
Total	1692	130	108	61	61	22	19	11	2104

Source: *Ministry of Labour*

(http://www.mol.fi/mol/pdf/fi/04_maahanmuutto/02_ulkom_tyonteko/workeuhyv.pdf)

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Decisions by the labour offices according to the branch (May – December 2004)

Branch	Positive	Negative	Total
Farming, game husbandry	582	16	598
House building	427	66	493
Services in real estate sector	132	15	147
Traffic sector (land)	133	2	135
Health and social sector	121	3	124
Recreation, culture, sports	109	0	109
Accommodation and restaurants	61	8	69
Metal industry	65	0	65
Food production	59	0	59
Civil engineering	43	2	45
Other services	29	12	41
Services on transport sector and travel agencies	38	1	39
Other branches	305	36	341
Total	2104	161	2265

Source: *Ministry of Labour*

(http://www.mol.fi/mol/pdf/fi/04_maahanmuutto/02_ulkom_tyonteko/workeuhyv.pdf)

Chapter VIII

Statistics

Number of citizens of the other EU States living in Finland, 31.1.2005

Country	total	men	women
Austria	275	168	107
Belgium	163	109	54
Check	185	75	110
Cyprus	30	26	4
Denmark	633	421	212
Estonia	14013	6192	7821
France	996	649	347
Germany	2616	1676	940
Great Britain	2674	2100	574
Greece	349	293	56
Hungary	639	307	332
Italy	1013	755	258
Ireland	286	228	58
Latvia	401	148	253
Lithuania	347	136	211
Luxemburg	13	7	6
Malta	10	8	2
The Netherlands	804	642	162
Poland	828	384	444
Portugal	180	128	52
Slovakia	90	49	41
Slovenia	16	9	7
Spain	685	461	224
Sweden	8234	4645	3589

Source: *Väestörekisterikeskus/Population Register Centre*

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Number of Registrations of the EU citizens Right of Residence 2004

Country	1	2	3	total
Austria	107	3	-	110
Belgium	77	4	-	81
Check	134	8	-	142
Cyprus	11	3	-	14
Denmark	no need to register the right of residence			
Estonia	4057	361	4	4422
France	367	13	-	380
Germany	778	47	-	825
Great Britain	344	23	-	367
Greece	63	1	-	64
Hungary	258	21	-	279
Italy	252	15	-	267
Ireland	55	2	-	57
Latvia	230	21	-	251
Lithuania	228	21	-	249
Luxemburg	4	-	-	4
Malta	6	-	-	6
The Netherlands	179	16	-	195
Poland	348	22	1	371
Portugal	45	-	-	45
Slovakia	49	1	-	50
Slovenia	13	3	-	16
Spain	263	4	-	267
Sweden	no need to register the right of residence			

1 Union citizen's right of residence

2 right of residence of a Union citizen's family member

3 right of residence of a Union citizen's family member who is not a Union citizen

Source: *Väestörekisterikeskus/Population Register Centre*

*Number of naturalizations of citizens of other European States (incl. non-Member States)
2002*

Country	
Bulgaria	16
Estonia	319
Former USSR	56
Former Yugoslavia	232
Germany	13
Great Britain	5
Hungary	2
Poland	7
Romania	16
Russia	418
Turkey	112
Sweden	61
Others	162

Source: *Directorate of Immigration <http://www.uvi.vi>*

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Immigration from the other EU States to Finland and emigration from Finland to the other Member States (other than Finnish citizens) 2001⁴

Country of orig./destin.	immigration	emigration
Sweden	685	3656
Denmark	78	391
the Netherlands	89	245
Belgium	18	255
United Kingdom	292	1125
Spain	90	803
Ireland	37	129
Italy	89	236
Austria	25	95
Greece	46	76
Luxemburg	2	77
Portugal	14	28
France	151	316
Germany	265	972

Source: *Tilastokeskus/Statistics Finland*

⁴ The most recent published statistics concerned the situation of 2001.

Chapter IX Social Security

The Finnish social security system is by and large based on residence. The right to benefits such as social and health care organised by municipalities, unemployment benefit, national pension, sickness insurance and family allowance, is based on residence in the Country; only those meeting the condition of living in Finland are entitled to these benefits.

The most severe problems related to social security in the field of freedom of movement follow from the incompatibility of the Finnish residence-based system with EC legislation that is drafted with work-based systems in mind. Furthermore, most problems appear to relate to situations in which Finnish citizens practice their right to freedom of movement and move to another Member State; which benefits are portable in this kind of situations? This is exemplified by, for example, the letter of formal notice of 28.10.2004 (2004/2158) that concerned the care support of a child. According to the Commission, the care support of a child is a family benefit under Regulation 1408/71 and it should therefore be portable to another Member State; national legislation according to which the benefit is paid only to persons living in Finland is thus not permitted. Finland argued in its reply of 21.12.2004 that the care support of a child is a special benefit for disabled children and as such a benefit meant in the appendix II a of the Regulation. Therefore the care support of a child can be restricted to those residing in Finland.

Concerning citizens of the other Member States residing in Finland, the Act Amending the Act on Applying the Residence Based Social Security Legislation (*Laki asumiseen perustuvan sosiaaliturvalainsäädännön soveltamisesta annetun lain muuttamisesta 635/2004*), that was given on 9th July 2004, reformed the preconditions for entering the Finnish social security system. Under the new Act the preconditions are stricter than those that were applied before. According to section 3 b of the new Act an employee or a self-employed person whose right to Finnish social security is based on the Regulation 1408/71 shall be entitled to the benefits covered by this Act if she works or functions as a self-employed person in Finland continuously for at least four months. Previously no requirements concerning the duration of the residence were applied in case of EU citizens and therefore also those working in Finland only for a very short period of time – for example only one day – were entitled to the Finnish social security. The relevant provisions of the new Act entered into force on 1.8.2004.

The Regulation 1612/68 is as a general regulation subsidiary in relation to the Regulation 1408/71. However, benefits covered by the Regulation 1408/71 are in practice covered also by the Regulation 1612/68. The Regulation 1612/68 is regarded to cover the whole Finnish residence-based social security system.

Supplementary pension schemes are not commonly used in Finland; the pension system is based on regulatory schemes.

Recent national reports, legal literature

*Kotihoidontuen ja elatustuen maksamista ulkomaille selvittäneen työryhmän muistio, Sosiaali- ja terveysministeriön työryhmämuistioita 2004:6 (A report by the working group considering the payment of home care support and maintenance support to a person living abroad. Ministry for Social Affairs and Health).
<http://www.stm.fi/Resource.phx/stm/index.htx> (15.5.2004)*

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Langer, Rose and Sakslin, Maija (eds), *Co-ordinating work-based and residence-based social security*, Helsinki: Faculty of Law, University of Helsinki, 2004.

Chapter X

Establishment, Provision of Services, Students

General rules of the Aliens Act on free movement of EU-citizens apply also to those practising their freedom of establishment, provision of services and to students (see above under title “Entry, Residence and Departure” and “Family Members”).

Those practising the freedom of establishment or the freedom of provision of services are regarded to be able to secure their income through their economic activities. Those who are not economically active – *e.g.* students – have to secure their income by other sufficient means so that they don’t burden the Finnish social security system. Any proof of the secured income is, however, not required; the statement of the person concerned is sufficient indication of the secure income. If the person concerned has to avail to the Finnish system of social security to cover the expenses of her daily living, the right of residence may be revoked on the ground that she does not meet the precondition of secured income.

According to section 159 of the Aliens Act, registering the right of residence of a student requires in addition to the general requirements that she has been admitted to an educational institution in Finland as a student.

Recent legal literature

Kaila, Heidi, Potilaiden liikkuvuus EU:ssa, *Defensor Legis* 2004/4, pp. 721-736 (Movement of patients within the EU)

Chapter XI
Miscellaneous

Nothing to report.

Chapter XII

Main Developments in the Sports Field

The activities in the sports field in Finland are of rather small scale in what comes to the number of actors and the money involved. In general there appears to be no pressure to restrict the number of players originating from the other EU states playing in the Finnish sports teams, as the number of such players remains rather low for various structural reasons. However, the Finnish national hockey league constitutes an exception to this; among the teams playing in the league there is a 'gentlemen's agreement' according to which there can be only four foreign players, including citizens of other Member States, in the playing composition of each team in each game. However, the number of foreign players in the teams as such is not limited, or in other words, the number of contracts of foreign players is not regulated. The gentlemen's agreement applies only to the composition of the teams during game. This agreement may still have impact on the willingness of the teams to conclude contracts with foreign players.

No action has been taken or will in the near future be taken on the ground of the UEFA recommendations.

Chapter XIII

Consequences of the Equal Treatment Clause in Agreements between the EU and Third Countries

According to section 1 of the Aliens Act, “the purpose of this Act is to implement and promote good governance and legal protection in matters concerning aliens. In addition, the purpose of the Act is to *promote managed immigration* and provision of international protection with respect for human rights and basic rights and *in consideration of international agreements binding on Finland*” (italics added). This reference to international agreements covers also the agreements between the EU and third countries and the equal treatment clauses adopted in such agreements. The general anti-discrimination legislation and the Aliens Act are regarded to meet the requirements following from the agreements between the EU and third countries and the equal treatment clauses adopted in them, and therefore no special legislation has been given. This method of implementing the equal treatment clauses does not, however, necessarily guarantee the rights of the citizens of the countries in question.

There is no judicial practice related to equal treatment clauses in agreements between the EU and third countries.

On 31 December 2004 there were 2354 Turkish nationals living permanently in Finland (<http://www.uvi.fi>). In 2004 762 Turkish nationals applied for job in Finland through employment offices (<http://www.mol.fi>).

Chapter XIV

Maritime Sector

The captain of a Finnish commercial ship has to be a Finnish national (*Merilaki 674/1994*, 6 luku 1 §, Sea Act). Other nationality conditions than this are not set forth in the Finnish legislation and therefore, for example, the first officers do not have to be Finnish nationals.

In practice it is not common to have on Finnish ships members of crew who are not Finnish nationals. This is largely due to the fact that the working language at the Finnish ships is normally either Finnish or Swedish, and all members of the crew have to command the working language sufficiently to understand the security information and orders given in it (*Asetus aluksen miehityksestä, laivaväen pätevydestä ja vahdinpidosta 1256/1997* 5 §).

The Finnish labour legislation and collective bargain agreements are applied to all persons working at Finnish ships independent of the nationality of the persons concerns. In 2004 there were no reported cases of discrimination based on nationality at the maritime sector.

Appendix I

The most relevant treaties concluded between the Nordic states:

- *Pöytäkirja Suomen, Norjan, Ruotsin ja Tanskan kansalaisten vapauttamisesta velvollisuudesta omata passi sekä oleskelulupa muussa pohjoismaassa kuin kotimaassa oleskellessaan*, SopS 17/1954 (Treaty exempting the citizens of the other Nordic states from the obligation to hold a passport and residence permit when residing in another Nordic state)
- *Sopimus Pohjoismaiden yhteisistä työmarkkinoista*, SopS 40/1983 (Treaty on the joint Nordic labour market)
- *Sopimus Suomen, Islannin, Norjan, Ruotsin ja Tanskan välillä Pohjoismaiden kansalaisten oikeudesta käyttää omaa kieltään muussa pohjoismaassa*, SopS 11/1987 (Treaty on the right to use one's own language in the other Nordic states)
- *Pohjoismainen työttömyysturvasopimus* SopS 57/1987 (Nordic Treaty on unemployment security)
- *Pohjoismainen sosiaaliturvasopimus*, SopS 106/1993 (Nordic Treaty on social security)
- *Sopimus Tanskan, Suomen, Islannin, Norjan ja Ruotsin välillä pohjoismaisista työmarkkinoista henkilöille, jotka ovat saaneet ammattipätevyyden antavan, vähintään kolmevuotisen korkeamman koulutuksen*, SopS 74/1998 (Treaty on the joint Nordic labour market for person who have passed at least three year's higher education)
- *Suomen, Islannin, Norjan, Ruotsin ja Tanskan välinen sopimus valtioiden eläkejärjestelmien mukaisen eläkeoikeuden sopeuttamisesta*, SopS 97/2002 (Treaty concerning right to pension)
- *Yhteispohjoismainen terveydenhuollon puitesopimus*, SopS 8/2004 (Framework convention on health care)

The Finnish and Swedish texts of the treaties enlisted here as well as several other Nordic treaties can be found at <http://www.finlex.fi>.