

## THE RESOLUTION OF EMPLOYMENT DISPUTES IN FINLAND

1. In Finland the Labour Court is a special court, which hears and tries the legal disputes arising out of collective agreements. So in Finland the competence of the Labour Court is confined to the sphere of collective labour law. An individual employee can file a case in the Labour Court only if he has the benefit of a collective agreement. If he does not, he has to go to the civil court or to the administrative court to enforce his rights. Thus claims based on individual employment contracts and statutory labour law are heard and tried within the system of regular courts.
2. Disputes belonging otherwise to the jurisdiction of the Labour Court may be referred to arbitration. It is a prerequisite that the collective agreement contains a specific clause thereon. In practice arbitration is not very often used instead of a lawsuit at the Labour Court. Arbitration may also substitute civil proceedings in regular courts, but it has practical significance within labour law perhaps only as regards managerial and comparable employees.
3. A prerequisite for a matter to fall within the competence of the Labour Court is that the specific case involves the competence, validity, contents or extent of a collective agreement or the correct interpretation of a clause in such an agreement. In addition, cases in which it is questioned whether a course of action is in accordance with the collective agreements or Acts covering these agreements fall within the competence of the Labour Court.
4. The Labour Court also imposes the sanctions for a breach of these agreements and Acts. The possible sanction to be imposed by the Labour Court is a compensatory fine. In cases where the parties to the collective agreement have agreed on damages for a breach of the agreement the Labour Court can enter a judgment ordering such damages. The Labour Court is not empowered to impose a disciplinary sanction or a criminal sentence.
5. The maximum amounts of compensatory fines are defined in the Collective Agreements Act and in separate acts concerning the civil servants' and the municipal officers' collective agreements. The maximum amounts of compensatory fines are reviewed every three years to be adjusted to changes in the value of money. In 2006 the maximum fine in the Collective Agreements Act is EUR 25,900. The compensatory fine is payable to the employers' or employees' organization winning the specific case.
6. Any court of law may request the Labour Court for an opinion in a matter which requires special knowledge in the field of employees' or civil servants' collective agreements. The court of law having requested the opinion is not, however, bound by it.
7. The territorial competence of the Labour Court covers the whole country. The decision of the Labour Court is final, and there is no

ordinary appeal against its decisions to a higher instance. However, the so-called extraordinary means of appeal are available. In this procedure, judgments of the Labour Court may be annulled by the Supreme Court upon demand. Thus far such appeals have not been successful.

8. The Labour Court is composed of a president and a vice-president, both of whom act as full-time chairmen of the court. In addition, there are 14 part-time members and each one of them has two deputies. The chairmen and the members, as well as their deputies, are appointed by the President of the Republic for a period of three years. The operation of the Labour Court is based on the principle of tripartism. The president, the vice-president and two other members are appointed from among persons having the legal degree required for judges in Finland and who cannot be considered to represent either employers' or employees' interests. Other members are appointed upon the nomination by the most representative central organizations of the employers' and employees' associations. These members are not required to have a law degree but they must have a sound knowledge of labour relations or must be familiar with the employment relationships of civil servants.
9. Most cases are heard and tried in panels, where, in addition to chairman and another so-called neutral member, two members representing the employers' interests and two members representing the interests of employees are present. In certain situations stipulated in the Act, the chairman is able to rule upon a case alone. The president may decide that a case will be heard and tried in a plenary session of the court. The plenary session is attended by all 14 members and the vice-president together with the president who chairs the session.
10. In the Labour Court the parties to the proceedings are the associations, which have concluded the collective agreement in question. An individual employee or civil servant is allowed to bring an action only if his/her association has denied to bring an action.
11. The main features of the procedure in the Labour Court resemble the procedure in the regular courts of law in Finland. The hearing of a case is divided into a preparatory stage and a main hearing. At first the preparation is conducted in writing, but normally there is also an oral hearing. The purpose of the preparation is to clarify the case so that it can be tried during the main hearing in one session without any postponements. In the preparation the plaintiff's demands and the defendant's response are brought forward, the specific issues in dispute are identified, and the material that the parties intend to present is gathered. After the preparation the main hearing, if needed, will take place. The main hearing consists primarily of the opening and final discussions of the parties and the hearing of witnesses.
12. The court may in urgent matters decide the case and pronounce the ruling immediately after the main hearing. This can be done for example in situations where there is an ongoing industrial action at the time of the main hearing. However, normally the court convenes for a so-called deliberative session to give its final decision in the matter.

Subsequently, the written decision is mailed to the parties to the litigation.

13. Most of the matters concern collective agreements involved the interpretation of the agreement or the breach of such an agreement or unjustified dismissal. Every third case involved the breach of the duty to maintain industrial peace. The average period for trying a case has in recent years been 5 - 6 months. About one tenth of the decisions by the Labour Court is given subject to a vote.
14. After the consideration of the matter, the Court collects a charge from the plaintiff in a civil matter. The amount of the charge varies depending on the nature of the matter and the court time its consideration has required. In the Labour Court the trial charge is 204 euros.

