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Chapter 8

Legal Issues Affecting Labour Market Integration of Migrants in Finland



Iiona Bontenbal and Nathan Lillie

8.1 Introduction

Finland's legal framework for migrant labour market integration aims to facilitate the official and broadly accepted policy goals of actively encouraging and supporting migrants to enter working life on terms similar to those of native born Finns. The integration legal framework sets out the basis for active labour market policies, which have been shown to be effective at reducing migrant unemployment. Despite reducing what would be an even higher unemployment rate, these policies are unable to completely overcome the various structural disadvantages of foreigners on Finnish labour markets. While Finland has a strong framework for labour rights protection in its labour laws and centrally negotiated collective agreements, anti-discrimination protection for migrants and ethnic minorities are weak. The unemployment percentages among foreign born individuals (15.8%) is significantly higher than among native born (8.4%) (OECD data from 2017).

This chapter examines the integration of migrants into the Finnish labour market from a legal perspective, asking the question: how does the Finnish legal framework facilitate and/or hinder the integration of migrants, asylum seekers and refugees into the Finnish labour market? The chapter will describe and analyse the legislative basis for the management of migration and integration, and the central labour market legislation.

The sources of law in Finland are national legislation, international law and European Union law; there is no subnational legislation. Juridical power in Finland is vested in independent courts, which are bound only by the law in force. The independence of the courts is guaranteed by the Constitution. Finland has been ranked, according to the World Economic Forum's Global Competitiveness Index, as the

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country with most judicial independence in the world (The Global Competitiveness Report 2017–2018: Judicial independence). In practice this means that also regarding migration legislative issues the courts are not subject to improper influence from the other branches of government or from private or partisan interests. Finland also scores highest on the protection of fundamental rights according to the Rule of Law Index (Rule of Law Index 2018) and it is signatory to most international agreements and legal instruments relating to immigration, free movement, human rights and non-discrimination (Nykänen et al. 2012, 24). Finland has ratified all the fundamental conventions of the International Labour Organization, as well as all of the governance conventions (International Labour Organization 2018). In international comparison, there is broad public and political support for complying with international human rights norms and legal obligations. Although these norms have been questioned by the right wing populist True Finns party, whose power has increased in recent years, there have been only minor actual changes to the law. Under the conservative coalition government that was voted out in May 2019, there was an apparent tightening of *interpretation* of migration rules, which disadvantaged migrants, refugees and asylum seekers (hereinafter MRAs).

Most of Finland's migration law is newly developed. The percentage of the Finnish population which is of foreign origin has historically been small, and it continues to be quite minor compared to many other European countries. Up to until the 1980s, there were more people migrating out of Finland than migrating to Finland. A few hundred refugees from Chile and Vietnam migrated to Finland during the 1970s and in the beginning of the 1980s (Kyhä 2011, 21). The first official refugee quota was set in 1988 (Saukkonen 2013, 87). During the 1990s, the number of asylum seekers grew due to international conflicts. Finland received asylum seekers mainly from Somalia and Yugoslavia and between 1990–1994 Finland granted asylum to about 5000 individuals (Sarvimäki 2017, 3). By the end of the 1990s, c. 18,000 refugees and their family members were living in Finland (Sarvimäki 2017, 3). Whereas before the 1990s, almost half of the immigrants to Finland had been from Western countries, now greater numbers of migrants came from countries in the former Soviet Union and Asia. In 1990, c. 1.3% of the population of Finland was born abroad. Due to a steady rise in migration flows, the percentage had grown to 7.02% in 2018. (Statistics Finland – Population by country of origin 2019.) In the beginning of the twenty-first century, Finland took refugees from, among other places, Afghanistan and Iraq (Martikainen et al. 2013, 37). The number of asylum applications to Finland grew significantly and suddenly in 2015. Since 2010 asylum application numbers had been around 3200–4000 a year but in 2015 the number suddenly grew to 32,476 applications. Most applications were made by individuals of Iraqi, Albanian, Somali and Afghan nationality. The following year the number dropped to 5651 applications. (Migri – Yearly statistics by nationality; Migri – Asylum Applications 2019.)

As Fig. 8.1 illustrates, immigration flows in Finland, since the 1990s, have been growing steadily, whereas emigration flows have remained stable. In the end of 2018, there were 257,572 individuals with a foreign nationality living in Finland, which is 4.67% of the entire population (Statistics Finland – Number of individuals

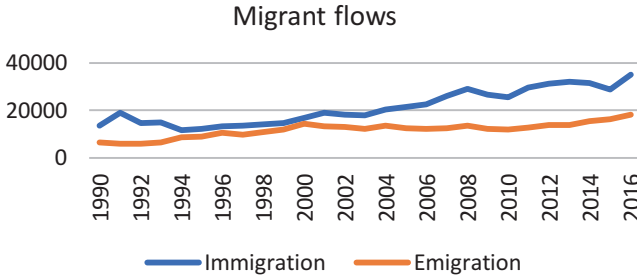


Fig. 8.1 Data from statistics Finland – Emigration and immigration flows

with foreign background 2019). The largest migrant groups by country of origin are Russians and individuals from the former Soviet Union (14,868 + 57,144), Estonians (46,206), Swedes (32,654), Iraqis (17,889), and Somalians (11,797) (Statistics Finland, 2018 – Population by country of origin 2018). The most common reason to apply for a first residence permit was on family grounds (43.6%), after which came work (31.4%), studies (22.9%) and other grounds (2%). (Migri – Statistics on Residence Permits 2018.)

8.2 Finnish Legislation on Migration

We first look at the legislative basis for the management of migration and integration in Finland, the Aliens act and the Act on the Promotion of Immigrant Integration. These two acts set out the framework for determining who can stay in Finland, on which grounds and how integration is managed. These acts fundamentally affect the opportunities that MRAs have for employment in Finland.

Migration and integration issues have in Finland been dealt with cross administratively e.g. by the Ministry of the Interior, the Ministry of Education and Culture, Ministry of Social Affairs and Health and the Ministry of Economic Affairs and Employment (Saukkonen 2013, 93). For example, the Ministry of Education and Culture is responsible for the education of migrants whereas the Ministry of Social Affairs and Health is responsible for the health care of migrants. The Act on Administration (FINLEX 434/2003) regulates the administrative procedures carried out by the authorities dealing with immigration. General legislation on administrative procedures and administrative juridical procedures apply in immigration procedures. (Nykänen et al. 2012, 21).

In Finland, the Ministry of the Interior is responsible for preparing legislation related to immigration and for steering immigration management. The Ministry is also responsible for the Finnish Immigration Service. The Ministry states its aim is “to develop a more forward-looking migration policy and managed migration, and to make Finland a safe and open country, where everyone can find a role to play”. (Ministry of the Interior – Migration 2018.) In 2007–2010, the Ministry of the

Interior was also in charge of coordinating the integration process in Finland. Since 2012, the main responsibility for integration has however been at the Ministry of Economic affairs and Employment. Other migration issues have remained at the Ministry of the Interior. In 2013, the Ministry published the first overall integration report of Finland (Saukkonen 2013, 94; Saukkonen 2017, 39–40.) The Finnish Immigration service has the main responsibility for carrying out decisions on immigration related issues. The office was established in 1995 (Aer 2016, 40).

In Finland, the basis for legislation related to immigration is found in the Aliens Act (FINLEX 301/2004) which constitutes the backbone of the regulation of immigration. The Aliens act contains rules on entry and stay in Finland, removal from Finland in relation to different forms of immigration, rights and obligations of foreigners in Finland, and procedures in matters of immigration. (Nykänen et al. 2012, 21.) The first Aliens act came into force in 1984. Before this, issues regarding foreigners were ordained by decrees, the last of which was given in 1958 (Aer 2016, 16). The law set in 1984 was soon found outdated and it was reformed in 1991, 1999 and 2004 (Makkonen and Koskenniemi 2013, 71; Aer 2016, 17) and 2016 (FINLEX 646/2016). During the preparations for the 2004 reform, the public discussion had started to shift towards labour migration (Aer 2016, 19). Finland joined the EU in 1995 and the Schengen agreement was introduced in 2001 (Makkonen and Koskenniemi 2013, 69). All Finnish migration policies are in accordance with the *The Common Basic Principles for Immigrant Integration Policy* set by the European Union regarding integration in 2004 (Saukkonen 2017, 17).

In 1997, the government's first migration- and refugee programme was published (Kyhä 2011, 16; FINLEX 493/1999). A general aim was set, that migrants should be effectively and flexibly integrated into Finnish society and into the labour market (Saukkonen 2017, 16). Before this, there was no official migration policy, in the sense of articulating goals and implementing government measures to achieve them (Kyhä 2011, 22). The framework for migrant integration is set out in the integration law. The first law on migrant integration came into force on May 1st 1999 (Saukkonen 2013, 92; VATT-Research Group 2014, 42; Makkonen and Koskenniemi 2013, 78). The Finnish Integration Act is similar to integration programmes introduced in other countries, such as the Temporary Assistance for Needy Families (TANF) in the US, the New Deal in the UK and the welfare-to-work policies adopted in Denmark and the Netherlands (Hämäläinen and Sarvimäki 2008, 3). The focus of the integration law in Finland has been on humanitarian migration and on the labour market integration of unemployed migrants (Makkonen and Koskenniemi 2013, 78). When the act was introduced, it brought along various reforms:

- The responsibility for supporting immigrant integration was placed with the central administration and municipalities, who were given the responsibility for coordinating existing resources at the local level (Hämäläinen and Sarvimäki 2008, 4; FINLEX 493/1999.) This also obliged all municipalities to prepare their own integration programmes and follow their execution and impact (Saukkonen 2013, 94; FINLEX 493/1999).

- The law set a new focus on the preparation of individualized integration plans. The content of these integration plans depends on the personal characteristics of the immigrant. The integration plans can include, for example, measures for acquiring language skills, career counselling, preparatory and/or vocational training, rehabilitation and/or work practice, depending on the specific needs of the migrant. The labour administration (TE-office) is responsible for preparing and implementing the integration plans of 18–64-year-old (working age) migrants, whereas municipalities take care of other age groups. (Hämäläinen and Sarvimäki 2008, 4; FINLEX 493/1999.)
- In addition, the communication between caseworkers and immigrants and the importance of training courses specifically designed for immigrants, such as language courses, increased as a result of the reform. Moreover, the importance of learning one of the local languages (Finnish or Swedish) was emphasised. Resulting from these reforms, the time spent in courses specifically designed for migrants and in language courses increased, whereas time spent in traditional activation labour-market programmes, such as job-seeking courses decreased. (Sarvimäki and Hämäläinen 2016, 480, 482–483, 498; VATT-Research Group 2014, 46; FINLEX 493/1999.)
- As part of the integration act, welfare benefits were made conditional on participation in activation measures. Refusal to participate or to follow the integration plan was made sanctionable by a reduction or withdrawal of integration benefits. (Hämäläinen and Sarvimäki 2008, 2, 4; FINLEX 493/1999.)

Only those migrants who had arrived after May 1st. 1997, and who were registered as unemployed job seekers or living in a household that received social assistance were affected by the new policies in the 1999 law (Hämäläinen and Sarvimäki 2008, 2, 4). Neither rules on the use of sanctions nor funding systems changed during this reform (Sarvimäki and Hämäläinen 2016, 483). The changes that were made in 1999 had a positive and significant effect on the integration of MRAs into the labour market. The integration plans increased participation and decreased the use of social benefits. (Hämäläinen and Sarvimäki 2008, 2, 9.) Researchers attribute the improvement to the more efficient use of existing resources, since the reform did not bring any new funds for active labour market policies (Sarvimäki and Hämäläinen 2016, 480).

The law on integration was changed several times to improve it. In 2006, migrants were also given the right to extend their integration plan by up to 2 years. In addition, the schedule for making the first integration plan was expedited so that integration plans are made sooner after arrival in Finland. (VATT-Research Group 2014, 46.)

The law on the integration of immigrants and reception of asylum seekers was reformed in 2010 and the new law (1386/2010) came into force the following year (Saukkonen 2016). During this reform, the main content of the law remained the same (Saukkonen 2013, 95; Saukkonen 2017, 16). However, the focus of the law shifted somewhat towards work and family-based migration. Due to this, more people became entitled to integration services. (Makkonen and Koskeniemi 2013, 78–79.) Before only those that were unemployed jobseekers and living on income

support were included into the integration policies, whereas since 2011 all migrants were included (Eronen et al. 2014, 26). Integration services were made available to all that need them, regardless of which category of migrant the individual belonged to (Saukkonen 2013, 95). According to the renewed law, all individuals migrating to Finland have to be informed about their rights in society and in the labour market (FINLEX 1386/2010 7§).

According to Saukkonen (2013), the problem of Finnish integration has been in how to get municipalities to implement the official state policies set by the central government. This is because the controlling instruments of the government and the financial resources have been limited. (Saukkonen 2013, 94.) The integration laws in Finland however require municipalities to form local integration programmes, to be able to receive state funding to cover some of the costs related to accepting refugees (FINLEX 1386/2010 32 § & 33 §).

At the moment, the migrant integration law is being revised to meet the needs of the ongoing health, social services and regional government reform in Finland. In the future, the focus areas of the law will be on structuring the education paths and entering of MRAs into the labour market, and on family orientated integration. Special attention will also be given to the different needs of various migrant groups. Municipalities will still have the main responsibility for managing integration services. (Ministry of Economic Affairs and Employment –Briefing 5.5.2017.)

8.3 Legislation on International Protection

The management of asylum seekers has a different legislative basis than that for migrants arriving for other reasons. The right to international protection is set out in the Alien act (2004/301 87 §). An asylum seeker may enter the country even if she/he is not able to present travel documents or permission for entry, since the application for asylum is in itself a sufficient reason for entry (Nykänen 2012, 45, 58; FINLEX 2004/301 35 §). In 2011, a law on *the reception of individuals in need on international protection and on the recognition and helping of victims of human trafficking* was introduced (FINLEX 746/2011). The aim of the law is to secure protection and income for those seeking international protection, for those in need of temporary protection and to victims of human trafficking. (Martikainen et al. 2013, 75.)

A residence permit based on a successful asylum application is granted for 4 years. After this the individual has to apply for an extended residence permit. (Migri – Asylum 2018; FINLEX 2004/301.) Asylum can only be applied for in Finland, and not for example at Finnish embassies in other countries or through a letter or email. Asylum applications always need to be left personally with the police or border control. (Migri – Asylum in Finland 2018; FINLEX 2004/301 95 §.) Once the asylum application has been left, the individual is referred to a refugee centre where he/she can live and wait for the asylum interview. The refugee centres take care of needed subsistence for living and offer accommodation and guidance

regarding getting legal aid. The centres also organize the necessary social and health care services as well as work and study activities and if the needed interpreter services. (Kotouttaminen.fi – Vastaanottokeskukset 2018.) The applicant can also find accommodation her/himself, for example with family or friends (FINLEX 746/2011 18 §).

The Finnish Immigration Service conducts the asylum investigation and interview. The purpose of this investigation is to establish the identity and travel route of the applicant, as well as the reason for applying for asylum and the evidence to substantiate the reason. In 2016 the asylum application process took on average 8 months (Ministry of the Interior, Usein kysytyt kysymykset turvapaikanhakijoista 2018). Once asylum is granted, the person will receive a residence permit card (Migri – Information for asylum seekers 2018). If the decision on the application is negative, the applicant can appeal the decision to the Administrative Court and if needed to the Supreme Administrative Court (Pakolaisneuvonta 2018). Once the procedure is over, the applicants who are granted asylum in Finland are placed in municipalities that have made arrangements to receive refugees (FINLEX 2010/1386, chapter 5). The local level coordination regarding receiving refugees is done by the Centres for Economic Development, Transport and the Environment (ELY Centres), who negotiate with the municipalities of their area about municipality places for refugees, living arrangements and needed services (Kotouttaminen.fi – Pakolaisten kuntaan osoittaminen 2018). Although there is effort to settle MRAs around the country, so they are not concentrated in certain areas, most MRAs still eventually end up living in growth centres (Rasinkangas 2013, 134–135). There are no legal restrictions on this, since all people in Finland are free to choose where they reside (FINLEX 731/1999 9 §). Those individuals who are not allowed to stay, can apply for assisted voluntary return (Migri – Information for asylum seekers 2018; FINLEX 2010/1386 85 §).

Quota refugees are individuals designated by UNHCR as being in need of international protection. The decision about the number of quota refugees to accept is made annually by the Parliament in connection with the approval of the state budget. The proposal is made by the Ministry of the Interior together with the Ministry of Foreign Affairs and the Ministry of Economic Affairs and Employment (FINLEX 2004/301 91 §). The UNHCR presents a group of people from which Finnish authorities choose the quota refugees that can come to Finland. The selection is done by interviewing. (Ministry of the Interior – Quota refugees 2018.) Yearly 100 places from the quota are reserved for acute cases and for those that the UNHCR has estimated to be in need of urgent resettlement. These emergency cases are chosen directly based on UNHCR documents. (Migri – Quota refugees 2018.) Since 2011, 750 quota refugees have been accepted to Finland annually. In 2014 and in 2015, the quota was however increased to 1050 refugees a year due to the situation in Syria. (Migri – Quota refugees 2018.) Quota refugees are granted residence permits and other rights on the same basis as refugees recognized in the asylum procedure (Nykänen et al. 2012, 102). Quota refugees are placed directly into municipalities, which take care of their reception and integration (Pakolaisten vastaanotto – Tietopaketti kunnille 2016).

The number of asylum applications filed in Finland greatly increased in 2014–2015, causing the Finnish government to take several measures. The first was to establish new reception centers and expand the Immigration Service's staff. (Sarvimäki 2017, 7.) Regulations for establishing reception centers are set out in *the Act on the Reception of Individuals in Need of International Protection and on the Recognition and Helping of Victims of Human Trafficking* (FINLEX 746/2011 9 § & 10 §). The government also responded to the increase in migration by publishing an action plan “*to stop uncontrolled migration*” (Finnish Government 2015). The idea was to try to make Finland a less attractive destination by changing various policies considered as “*pull factors*”. The government, for example, tightened the requirements for family reunification and reduced social benefits (Sarvimäki 2017, 7; FINLEX HE 43/2016.) Due to these changes in policy, it has among other things become more difficult for many MRAs to bring their families to Finland. One important change made in 2016 was that individuals who have been granted subsidiary protection or refugee status must show sufficient income to cover each family member's living expenses, in order to be eligible to bring their family members. The purpose of the reform was to make sure that the Finnish society does not have to pay for foreigners residing in Finland but that instead the expenses would be taken care of by the residing person or his/her family. (FINLEX HE 43/2016.) Fees were also introduced for family reunification applications in 2016 by a decision by the Ministry of the Interior (FINLEX 872/2017).

Besides making Finland seem less attractive, the government also revised integration policies. On this note, an action plan was published by the government in May 2016 (Finnish Government 2016). The action plan included measures such as improving recognition of education certificates obtained abroad, the integration of language studies into other studies and the streamlining of the starting phase of integration services. (Sarvimäki 2017, 7.)

An empirical study by *the Institute for Human Rights at Åbo Akademi University* and *the Non-Discrimination Ombudsman* on official decisions on international protection in Finland in 2015–2017, found the decisions made by the Finnish Immigration Service on international protection had become stricter during that period. The research focused on decisions made on international protection regarding 13–34-year-old Iraqi nationals. The research report notes that the tightening of decision cannot be explained by changes in the migration law but rather by stricter decision made by the Finnish Migration Service. (Saarikkomäki et al. 2018.) The tightening of decision made about asylum was much discussed in the media, and the expressed opinions of people working with migration issues seem are similar. The Migration Institute however, maintains that there has been no weakening of legal protection for migrants, in this case Iraqi migrants, or that asylum decisions are affected by political control or pressure (Interview by the chief director of the Migration Institute Jaana Vuori for the newspaper *Etelä-Suomen sanomat* 22.3.2018). Since the project undertaken by the Åbo Akademi and partners was only a pilot research, this issue is something that should be looked at more specifically and comprehensively. The effect of political pressure on administrative decision makings in the asylum process is something that has been discussed increasingly

since the recent increase in asylum applications, not just in Finland but in other European countries as well.

8.4 Right to Stay, Residence Permits and Citizenship

According to the constitution, only Finnish nationals have the undisputed right to reside in Finland and the right of foreigners to stay in Finland is governed by legislation (Aer 2016, 24; FINLEX 2004/301). Finnish citizens and foreigners legally resident in Finland have the right to freely move within the country and to choose their place of residence. Everyone has the right to leave the country. (9 §.) When a foreigner enters Finland, he/she must have the required travel documents. What constitutes a valid travel document depends on the citizenship of the person. (Nykänen et al. 2012, 36.) The visa regulations in Finland have their background in common Schengen-area norms (Nykänen et al. 2012, 39). Visas are issued for a maximum of 90 days and they do not give the right to work in Finland (Juvonen 2013, 17). If foreigners entering the country intend to stay for longer than 90 days, they need a permit of residence. In general, the residence permit must be applied for in a country where the foreigner resides lawfully before entering Finland (Nykänen et al. 2012, 59; FINLEX 2004/301 60 §). This however is not imperative, and the first residence permit can also be applied for in Finland (FINLEX 2004/301 60 §). A residence permit needs to be applied for personally and it cannot be done by another person, such as a spouse or employer. EU-citizens as well as citizens from Iceland, Norway or Liechtenstein do not need a residence permit but only need to register their residence. (Migri – Residence permit 2018.)

The residence permit can either be temporary or permanent (FINLEX 2004/301 33 §). The first residence permit is always for a fixed-term, which is generally 1 year (Nykänen et al. 2012, 55; FINLEX 2004/301 53 §). The issuance of a residence permit must always be justified on particular grounds, such as, for example, working or studying in Finland or for international protection. Because of this, the applicants must meet the requirements for the form of permit she/he is applying for. In general, the family members of person (defined as nuclear family) who reside in Finland by virtue of a residence permit may be issued a residence permit on the basis of family ties. In this case the family must have sufficient income to cover each family member's living expenses. (Nykänen et al. 2012, 56–57, 63, 67; FINLEX 2004/301 39 §). Those individuals that have lived in Finland continuously for 4 years with a continuous residence permit may get a permanent residence permit (Migri – permanent residence permit 2018; FINLEX 2004/301 56 §). If an EU citizen resides continuously in Finland for 5 years, they receive the right to permanently stay in Finland (Makkonen and Koskeniemi 2013, 73–74; FINLEX 2004/301 161 g §). Marriage does not give an automatic right to a residence permit (Säävälä 2013, 108). The issuance of a residence permit opens up access to the Finnish social security system, since the right to social security is based on permanent residence (Aer 2016, 75; FINLEX 1993/1573). In general, the legal position of

long-term residents in Finland is fairly strong. A continuous fixed-term residence permit provides its holder with a stronger legal status, including a wider range of rights and freedoms, than that provided by a temporary fixed-term residence permit. (Nykänen et al. 2012, 55, 71.) A continuous fixed-term residence permit for example provides its holder with a permanent right to work in Finland (FINLEX 2004/301 78 §). Foreigners who reside in Finland have the right to move freely in the country and to choose their place of residence (Nykänen et al. 2012, 63; FINLEX 731/1999 9 §).

Access to citizenship is a part of the integration process. The basis of Finnish citizenship is hereditary (*ius sanguinis*) (Aer 2016, 26; FINLEX 731/1999 5§; FINLEX 359/2003 9 §), but Finnish citizenship can also be acquired after an individual has lived in Finland for a sufficient time. Figure 8.2 illustrates the number of citizenships granted in Finland since 1990. The number has increased significantly since 1990, which can be expected since also the number of total immigration has grown steadily. The sharp increases in granted citizenships in 2004 and 2012 are explained by changes in legislation: since 2004 it became possible to maintain one's previous citizenship and thus become a dual-citizen and in 2012, the required time of living in Finland before being able to become a citizen was dropped from 6 years to 5 years (Statistics Finland – Suomen kansalaisuuden saaneet 2017). Having the host country's citizenship can facilitate integration e.g. by signalling motivation and an intention to stay (OECD 2017, 84). Other requirements are the knowledge of one of the official languages (Finnish or Swedish), integrity, means of support, established identity and fulfilled payment obligations. (FINLEX 359/2003 13 §) The application cost is c. 350–440 euro. Finland accepts multiple citizenship. (Migri–Finnish citizenship 2018; Migri – Citizenship application 2018; FINLEX 2003/359.)

Grounds for removal from Finland are laid down in section 148 of the Alien Act (2004/301 148 §). The main grounds are invalid residence permits, being found guilty of a criminal offence, or being found to be a danger to public safety or Finland's national security. In 2018, 1714 individuals were refused entry into

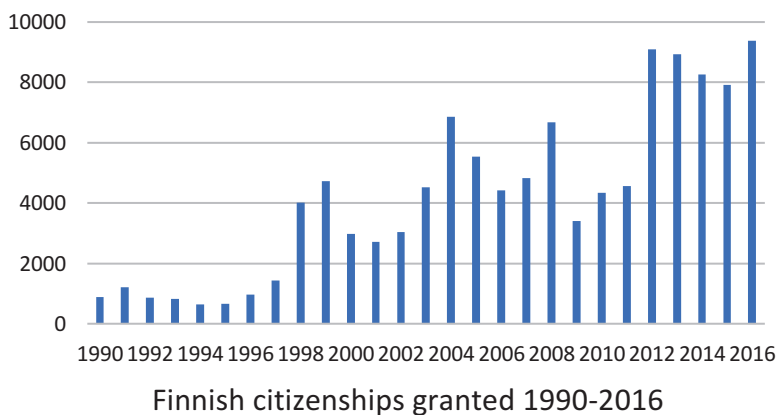


Fig. 8.2 Citizenships granted, 2016. Data from Statistics Finland

Finland and 1447 individuals were deported. Romanians, Iraqis, Russians, Estonians, and Ukrainians were the nationalities most often refused entry. The largest numbers of deportations were persons of Russian, Iraqi, Vietnamese, Somali and Ukrainian nationality. Of all the individuals deported in 2018, c. 88% were deported for unauthorized stay, whereas 12% had been found guilty of a criminal offense. According to the Immigration Service the number of deportations and refusals of entry has remained about the same in recent years. (Migri – Removal 2019.)

8.5 Permits to Work

In Finland, the Ministry of Employment and the Economy is responsible for implementing labour legislation (Ministry of the Employment and the Economy – Labour Legislation 2018). The integration of MRAs into the labour market is important considering both their individual life and the public economy of the state. By working migrants earn money to take care of themselves, and participate in funding public services through paying taxes. Employment also provides migrants with networks, social contacts and information about how the society functions. (Saukkonen 2017, 18.)

The Finnish constitution provides that everyone has the right to earn his or her livelihood by employment in the occupation or commercial activity of his or her choice. Legislation also asserts that the public authorities are responsible for labour protection, for promoting employment and for working towards guaranteeing everyone the right to work. Provisions regarding the right to receive training that promotes employability are laid down by an Act. No one shall be dismissed from employment without a lawful reason. (18 §.) Those who cannot obtain the means necessary for a dignified life have the right to receive indispensable subsistence and care. This applies if there is no subsistence from anywhere else and in practice this indispensable subsistence is channelled through income support policies. (19 § 1 mom.)

Regulation for work-based migration is set in migration law. To work in Finland, foreign citizens must first establish they have the right to work in Finland, and the employer has the responsibility to check this (2004/301 86 a §). The right to work depends on how long the individual intends to stay, what kind of work he/she is coming to perform and what country citizenship he/she has. Individuals who want to move to Finland from the European Union or the European Economic Area (EEA) are not required to apply for a permit to work (Occupational Safety and Health Administration – Foreign Employee 2018; FINLEX 2004/301 chapter 5). There are also other excepted groups such as seasonal workers and certain defined professions such as researchers, interpreters, professionals, athletes, and so on. (FINLEX 2004/301 79 §). In general, third country nationals cannot work in Finland without a valid permit to work (Aer 2016, 179).

Third Country Nationals, in general, need a residence permit, which allows them to work. Migrants who are coming specifically to work must apply for specific

residence permit applications based on the type of work they plan to do. Migrants coming for dependant employment can apply for a *residence permit for an employed persons* and self-employed persons can apply for a *residence permit for self-employed persons* (FINLEX 2004/301 11 §). To be able to apply for a *residence permit for an employed person*, the migrant must comply with certain income requirements, i.e. have a confirmed job waiting and the salary must be sufficient to support the migrant for the entire time that the residence permit is valid (Migri – Working in Finland 2018). The minimum salary from gainful employment is reviewed annually. The salary of a full-time employee must at least correspond to the salary specified in the collective agreement that applies to the employment relationship. For specialists and EU Blue Card holders salary requirements are stricter. Specialists must have a salary of at least approximately 3000 euro per month and the salary of a Blue Card Holder must be at least 4732 euro per month in 2019. (Migri – Income requirement 2019.)

To get a *residence permit for a self-employed person* the migrant must register his or her business with the Trade Register, and must demonstrate having a secure means of support while in Finland. Moreover, the migrant in question must actually work in the business enterprise, and this work must be done in Finland. In practice this means that ownership in a company is not sufficient grounds for issuance of a residence permit. (Migri–EnterFinland 2018.) Even though the workers' residence permits are in principle the main category issued for employment in Finland, other types of residence permits also permit the migrant to work (Nykänen et al. 2012, 147). The adequacy of the work contract and the employer's ability to function as an employer will be checked, as well as the migrant's qualifications and his/her possibilities to earn an adequate livelihood (Kyhä 2011, 27). Families of those that have been granted a residence permit for work may usually apply for a residence permit on the basis of family ties (Migri – Working in Finland 2018).

For residence permits based on work for third country nationals, the Employment and Economic Development Offices (TE Offices) will estimate whether there is a labour market need for the type of job the migrant is filling (the "availability test") (The Central Organisation of Finnish Trade Unions, 2017; FINLEX 1218/2013 73 §). This availability test is made so that EU and European Economic Area (EEA) citizens have priority to get employed (Nykänen et al. 2012, 140). Some have noted that the availability policy tends to restrict the possibilities that enterprises have for hiring workers and slows down the process of finding suitable employers (Mäkelä 2019). Moreover, in Finland the availability consideration clause is interpreted rather strictly and it can actually be quite difficult to determine which sectors need labour and which do not (Punto 2018). The availability test is done only for manual labour jobs such as cleaning personnel, chefs, car drivers or construction workers. It does not apply to experts or professionals who receive their residence permits straight from the Finnish Immigration Service without having to go through this process. An estimation of the workforce need always uses a case-by-case approach. Individuals wanting to come from outside of EU or EEA will only receive a permit to work if it is estimated that there is a labour shortage in their field. (The Central Organisation of Finnish Trade Unions 2017.) The application of the availability test

has been controversial. Since 1.6.2019 those migrant employees who have been working in Finland for at least 1 year are no longer subject to the availability test, if they want to change occupation while in Finland (Finnish Government 2019.) This change in legislation is expected to make it easier for professional workforce to change working places and it will thus improve the position of migrant workers already living in Finland. A need for this has been building up since in some sectors there are shortage of labour force. In practice, the change is expected to affect only a very limited number, only a few dozen, of migrant employees already working in Finland annually. (Ministry of Economic Affairs and Employment 2019.)

The Employment and Economic Development Offices (TE-offices) are in practice responsible for the integration of migrants into the labour market at the local level. If found useful, an initial mapping is done with individual migrants who are not part of the labour force, or who register as job seekers. Based on the initial mapping an individual integration plan is made (FINLEX 2010/1386 10 §). The integration plan is not compulsory, neither for employed nor unemployed migrants (FINLEX 2010/1386 11 §). The integration plan can include e.g. language training, internships, education, courses preparing for working life, and career counselling. (Eronen et al. 2014, 25.)

In many OECD countries, the time during asylum procedures is actively used to facilitate integration by for example offering applicants language training, skills assessment and labour market preparation (OECD 2017, 87). An asylum seeker can work in Finland 3 months after arrival if her/his travel documents are in order. This means that asylum seekers must present a valid and authenticated passport or other travel document to the authorities upon arrival. Those asylum seekers that do not have the needed travel documents can start working after 5 months has passed in Finland. (FINLEX 2004/301 79 §.) An employed asylum seeker can also apply for a residence permit based on work during the same time that the asylum application is being processed. (Ministry of the Interior – FAQ asylum seekers and employment 2018.) Asylum seekers may also take part in comprehensive education in schools and after this they may apply and accept a study place if they meet the general selection criteria (Opintopolku.fi 2018). Attending comprehensive education is not compulsory for adults. In Finland, all school-age children resident in Finland must participate in compulsory education (FINLEX 1998/628).

8.6 Regulations Regarding Working in Finland

The Finnish labour market is largely regulated by collective bargaining agreements, which are extended to all workers and employers over most economic sectors, and which set e.g. salary levels and working hours. The most important laws on labour, for individuals in an employment relationship in Finland, are the *Employment Contracts Act* (FINLEX 55/2001), *Working Hours Act* (FINLEX 605/1996) and the *Annual Holidays Act* (FINLEX 162/2005). The most central laws regarding collective labour rights on the other hand are the *Collective Agreement Act* (FINLEX

436/1946) and the *Act on Co-operation within Undertakings* (FINLEX 334/2007). The Finnish law on employment, at least in regards to its minimum requirements, applies to all work done in Finland regardless of what the nationality of the employee is. (Ministry of the Employment and the Economy – Report 2015, 5–6.) When the work is done in Finland the same laws and labour agreements apply to both Finnish and foreign employees (Finnish Institute of Occupational Health 2014, 17).

In Finland, employers' and labour organisations have a political role, particularly in issues concerning work and social security, even though they are not among the classical Parliamentary actors (Laine 2015). Trade unions are a visible presence in most work places, and many are active in recruiting and representing migrant-specific interests (Alho 2015a). About 70% of employees in Finland belong to a trade union and 95% of employees work under a collective labour agreement negotiated by a labour union (The Finnish Confederation of Professionals 2018). The right to join a union is protected legislatively (FINLEX 2001/55, Chapter 13 1 §) and employers are forbidden from discriminating against employees on the basis of union membership (FINLEX 1325/2014 8 §). In the event of unemployment, union membership entitles a worker to access that unions' unemployment insurance fund (Finnish Institute of Occupational Health 2014, 22). This means that union members receive much higher income support than non-members, if they become unemployed. The so called "Ghent system" is thus in place, in which unions have responsibility for managing unemployment insurance schemes, which are also supplemented by tax subsidies (Andersen et al. 2007, 106). There are three main central trade union confederations. These are the SAK (the Central Organisation of Finnish Trade Unions), STTK (the Finnish Confederation of Professionals) and Akava (the Confederation of Unions for Professional and Managerial Staff in Finland) (The Infopankki website –Trade Unions 2018). There is no exact information about the union membership rate of migrants in Finland. Alho (2015a) has estimated that the number of migrant members in Finnish labour unions grew 71–78% between 2006 and 2011 (Alho 2015b, pp. 13.). Furthermore, Alho estimates that for example the unionization density of migrant construction workers is somewhere between 12–14%, which is far lower than the national average in Finland (Alho 2013, pp. 144).

There are several mandatory regulations in the labour legislation that cannot be breached by a local contract, especially not in such a way that it would be harmful to the employee. *The Collective Agreement Act* (FINLEX 436/1946) regulates the rights of employers, employer associations and labour unions to negotiate binding collective agreements on behalf of all employers and workers in a sector, respectively. Collective agreements establish working time, payment for work, overtime and sickness pay, holidays, and other terms of employment (Finnish Institute of Occupational Health 2014, 22). If there is a universal collective agreement, all employers must for example comply with the minimum standards set out in that collective labour agreements. (Ministry of the Employment and the Economy–Report, 2015, 5; FINLEX 436/1946.) Each sector follows its own collective agreement and those establishments that do not have their own agreement must follow the nationally applicable and binding agreements of that sector (Ministry of the

Employment and the Economy – Report 2015, 7). There is a government board which declares collective agreements universally binding when the unions are deemed sufficiently representative of workers in that the sector (Ministry of the Employment and the Economy – Report 2015, 7–8.) According to this system about 95% of the workforce becomes covered by the collective agreements and also those individuals that do not belong to labour unions are protected (Ristikari 2012, pp. 22, 34). This also means that the collective agreements govern the working conditions of foreign workers in a similar way than those of Finnish workers. The tripartite collective bargaining system which leads to the collective agreements has in Finland been as especially important tool for labour unions (Alho 2015a, pp. 14). The tripartite decision making system is a typical feature of Nordic labour markets, and creates a tendency toward uniform pay increases within industries. Instead of negotiating wage adjustments separately in each firm, adjustments are negotiated collectively at the sectoral level. This means that all members of a particular union receive the same wage increase, in relative terms. (Andersen et al. 2007, 105, 120.)

Anti-Discrimination legislation may have an effect on the labour market position of MRAs, by establishing their nationality or ethnicity should not be considering in recruitment or deciding salaries. In practise, equality on the labour market means that only those kinds of qualities that are meaningful for conducting the work tasks should be demanded of job applicants. (Forsander 2013, 236, 238.) As with immigration law generally, norms prohibiting discrimination against migrants are a recent development in Finland.

There are now a number of laws against discrimination against MRAs in work. The law (FINLEX 1325/2014; FINLEX 2001/55 2 §) demands that employers must treat their employees equally, unless there is a reason not to do so. Reasons not to do so include, inter alia, different positions or different tasks (Ministry of the Employment and the Economy – Report, 2015, 7). Also, positive discrimination can however be a reason for treating employees differently (Ministry of the Employment and the Economy – Report 2015, 17). *The Non-Discrimination Act* (FINLEX 1325/2014), *the Act on Equality between Women and Men* (FINLEX 1329/2014) and *the Employment Contracts Act* (FINLEX 55/2001) together regulate the equality and parity of employees (Ministry of Economic Affairs and Employment – Työsopimuslaki 2017, 13). *The Non-Discrimination Act* (FINLEX 1325/2014), prohibits discrimination on the basis of age, ethnic or national origin, nationality, language, religion, conviction, opinions, health, disability, sexual orientation or any other personal quality. *The Act on Equality between Women and Men* (FINLEX 1329/2014) on the other hand prohibits discrimination on the basis of sex. According to the law (1325/2014, Chapter 2, 7 §) all employers must promote equality between women and men in work life and ensure that both sexes have the same opportunities for career progression. (Finnish Institute of Occupational Health 2014, 50.) The law also includes a discrimination prohibition and it requires that public officers must advance equality in all their actions (FINLEX 1325/2014, Chapter 2, 5 §). Discrimination has also been criminalized in the criminal law (FINLEX 39/1889). Still, enforcement seems to be poor, since discrimination is a structural feature of the Finnish labour market (Heikillä 2005). Structural factors that exclude MRAs

from the labour market include the high minimum wage (de facto) and other labour costs, which demand high productivity. Employment possibilities for workers who lack the required human capital have been decreasing and in fact hardly any low paying jobs remain for unskilled or semiskilled workers in industry. The high cost of labour also hinders the expansion of the low-productivity, labour-intensive service sector. (Forsander 2004.) Moreover, MRAs are also disadvantaged as jobseekers. Liebkind et al. (2016) found that foreign applicants from a low-status ethnic minority groups, such as Polish, had significantly lower chances of being selected for a vacant position when paired with a majority Finnish applicant, or with an applicant from a high-status ethnic minority, such as Australian (Liebkind et al. 2016, pp. 417). Moreover, another study found that individuals with a foreign surname are significantly less often selected for job interviews compared to individuals with a Finnish surname (Ahmad 2019). According to results from the Eurobarometer 2015, 67% of respondents in Finland estimated that discrimination based on ethnic background is common and 66% estimated that skin-color and ethnic background may affect employment decisions. (Eurobarometer – Finland 2015).

Enforcing compliance with the labour legislation is mostly the responsibility of The Occupational Safety and Health (OSH) authorities. The Occupational Safety and Health are part of OSH Divisions of the Regional State Administrative Agencies, which come under the Ministry of Social Affairs and Health. (Ministry of the Employment and the Economy – Labour Legislation 2018.) Employers who violate the provisions of the Alien Act relating to employment can receive administrative or criminal sanctions (Nykänen et al. 2012, 151). Employers have the responsibility to check (2004/301 86 a §) that foreign employees are eligible to work. If the employer does not comply with the responsibility to check, on purpose or due to negligence, he or she may be sanctioned. In some severe cases, a foreigner working in Finland without the right to gainful employment may be fined for violation of the Aliens Act. (Nykänen et al. 2012, 153.) This however, has not been common and more often the employee faces sanctions.

8.7 Conclusions

Overall, Finnish legislation on immigration can be characterized by a rather late awakening to the requirements of democratic principles and human right concerns. It reflects modern standards and a pragmatic approach to the needs of society. (Nykänen et al. 2012, 20.) Finland is a strongly constitutional state that has law-abiding, independent and educated public officials. Issues regarding MRAs and migrant administration are discussed openly and critically. Open discussion also functions as an instrument of control since officials know that they not only must address the immediate issue, but also have to answer to civil society at large. (Pirjatanniemi 2018)

The two central acts which govern migration and integration issues in Finland are the *Aliens Act* (FINLEX 301/2004) and the *Act on the Promotion of Immigrant*

Integration (FINLEX 1386/2010). Regarding asylum procedures the *Act on the reception of individuals in need of international protection and on the recognition and helping of victims of human trafficking* (FINLEX 746/2011) is most central. In practise, these acts define e.g. who can enter the country and on which grounds, who is permitted to stay in Finland on which grounds and what kind of integration measures are taken. The legislation also defines who is responsible for which part of migration management.

The Aliens act functions as the backbone of the general regulation of immigration into Finland and the Act on the Promotion of Immigrant Integration is the backbone for migrant integration policy in Finland. Various integration measures have been tested and some have been found more effective than others, which is also reflected in the changes of the integration law. The increased number of asylum seekers coming to Finland since 2015 has not caused major changes in legislation regarding migration and integration. The interpretation of migrant legislation seems to however have somewhat tightened, reflecting public opinion.

A central cross-cutting aspect of labour market legislation regarding MRAs is that when work is done in Finland the same laws and labour agreements apply to both Finnish and foreign employees. Overall, the integration of MRAs into the Finnish labour market has not always been successful. Although there may be some aspects of the Finnish legislation (e.g. the availability tests) that may at times hinder the labour market integration of some MRAs it seems that other factors in society may have a larger role in this, such as a lack of language skills, networks, qualifications, recognition of qualification and ineffective integration procedures (Bontenbal et al. 2018). However, it seems that even though urging equality and prohibiting discrimination are taken seriously in the legislation the practical reality may not always respond to the laws in place and this may in fact hinder labour market integration.

Based on earlier research, the reforms brought about by integration legislation, in the end of the 1990s, seem to have had a positive effect on the labour market integration of MRAs. Especially the individual integration plans are of interest and could also be considered as a possible policy recommendation for other countries.

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