

A Case Study of the Finnish Social Security Law within the Context of Working beyond Retirement Age – Can Finland Be Considered as a Model to Other Member States of the European Union?

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Abstract. *This Article analyses working beyond retirement in Finland from the perspective of the Finnish social security law. It is maintained that relevant provisions of the Finnish Employees Pensions Act constitute a comprehensive legal background creating chances for aged employees to postpone their retirement. Since these legal provisions are based on the principle of flexibility, which enables the elderly according to their abilities and intentions to voluntarily make their own choices on when to retire, Finland can be regarded as a model to other Member States of the EU facing problems in the employment of aged people. However, this Article argues that considering the fact that many Finnish employers are still against too lengthy working careers and that this attitude is changing slowly, time will be needed to adapt this situation, so that divergent interests and abilities of the elderly are respected, that they are regarded as a useful labour force and that, eventually, they are able to freely make full use of their choices or chances, entrenched in social security legislation, to retire later and thus prolong their working careers.*

Keywords: *retirement age, postponement of retirement, old-age pension, part-time pension, flexibility, flexible retirement.*

Študija finskega primera zakonodaje s področja socialne varnosti o delu po upokojitveni starosti – ali je finska rešitev lahko model za druge države članice EU?

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Povzetek: Prispevek analizira delo po upokojitveni starosti na Finskem z vidika finske zakonodaje s področja socialne varnosti. Določbe finskega pokojninskega zakona predstavljajo celosten pravni okvir, ki ustvarja možnosti, da starejši delavci ostanejo dlje zaposleni. Ker zakonske določbe temeljijo na načelu fleksibilnosti, to starejšim delavcem omogoča, da se glede na svoje sposobnosti in namere prostovoljno odločijo, kdaj se bodo upokojili. Finska bi bila lahko model za druge države članice EU, ki se soočajo s problemom zaposlovanja starejših ljudi. Vendar pa v prispevku tudi ugotavljamo, da bo glede na dejstvo, da je veliko finskih delodajalcev še vedno proti podaljševanju poklicne kariere in da se tak odnos le počasi spreminja, potreben čas za prilagajanje, upoštevajoč pri tem različne interese in sposobnosti starejših. Potrebno jih je obravnavati kot koristno delovno silo in jim omogočiti, da polno izkoristijo možnosti in priložnosti, ki so opredeljene v zakonodaji, da torej lahko upokojijo kasneje in s tem podaljšajo svojo delovno obdobje.

Ključne besede: starost ob upokojitvi, zamik upokojitve, starostna pokojnina, delna pokojnina, fleksibilnost, fleksibilno upokojevanje

1. INTRODUCTION

Aging population and employment of the elderly has become a relevant issue for the whole Europe. Finland has similarly faced this problem and has had to find ways encouraging people to stay in employment after reaching retirement age and promote active ageing¹. Since there was a need for a new pension reform due to rapidly ageing Finnish population, what induced the necessity to reduce the expenditure for the earnings-related pension, to decrease pension contributions and to make the pension system simpler², Finland was the first Member State of the European Union (hereinafter referred to as *the EU*) to successfully undertake measures improving the situation of aged employees in the labour market³. Moreover, the Finnish pension system was greatly adjusted in 2005

¹ Ilmakunnas, S., Takala, M. (2005), 'Promoting Employment among Ageing Workers: Lessons from Successful Policy Changes in Finland', *Geneva Papers*, 30, pp. 674, 686.

² Hietaniemi, M., Ritola, S. (2007), 'The Finnish Pension System' *Handbook of the Finnish Centre for Pensions*, 6, pp. 129, 157–158.

³ Ausschuss der Regionen (2003), *Ältere Menschen im Erwerbsleben. Vorstellung einschlägiger*

with the new pension reform, which introduced flexibility to retire between the ages of 63 and 68⁴ and the level of the future pension related to the length of working history and life earnings⁵. Hence the Finns have acquired a possibility to postpone their retirement and even continue working after the age of 68 on certain conditions⁶, but not 'to choose the first possible retirement option'⁷. Various programmes related to age management⁸ were also designed to postpone retirement and thus stimulated aged Finns to voluntarily remain longer active in employment. For this reason their right to continue working and earn a decent future pension level has become of significant importance.

Considering the abovementioned, working beyond retirement age in Finland from the perspective of the Finnish social security law is analysed. Referring to two different age groups of employees – those between 63 and 68 years old who can individually choose their age for retirement and those who have already reached the age of 68 (hereinafter referred to as *aged employees, the elderly*) – this Article is aimed at answering two research questions. Firstly, whether the Finnish social security law encourages the elderly to postpone their retirement and thus enables them staying longer active in the labour market. Secondly, whether, as a result, Finland can be considered as a model to other Member States of the EU facing problems in the employment of aged people, so that employees, who have already attained retirement age, are more encouraged to stay at work and that a more positive attitude of employers towards the elderly is created. The possibility of considering Finland as a model is primarily based on the proposition that a modern pension reform of 2005 successfully introduced flexible retirement, which is aimed at voluntarily encouraging aged employees to stay longer in the labour market. In respect to that this Article aims to verify to

Konzepte lokaler und regionaler Gebietskörperschaften, Studien E-2/2003. Retrieved November 2015 from <http://webcache.googleusercontent.com/search?q=cache:d43rV8Ys4DYJ:cor.europa.eu/en/documentation/studies/Documents/Older-people-in-working-life/DE-older-people-in-working-life.pdf+&cd=2&hl=lt&ct=clnk&gl=de>

⁴ Piekkola, H. (2004), 'Active Ageing Policies in Finland', *Research Institute of the Finnish Economy Discussion Papers*, 898, pp. 38.

⁵ Hietaniemi and Ritola (n 3) 157.

⁶ Employment Contracts Act of Finland, No. 55/2001 (with amendments up to 398/2013), Section 1a of Chapter 6.

⁷ Gould, R. (2006), 'Choice or Chance – Late Retirement in Finland', *Social Policy and Society*, 5(4), pp. 519.

⁸ Numhauser-Henning, A. (2013), 'Labour Law in a Greying Labour Market – in Need of a Reconceptualization of Work and Pension Norms. The Position of Older Workers in Labour Law', *European Labour Law Journal*, 4(2), pp. 90.

what extent the Finnish retirement model can be transformed to other Member States of the EU facing problems in employing aged people and what obstacles can be faced.

This Article is based on the legal analysis of the main Finnish social security statute – Employees Pensions Act⁹, which regulates statutory earnings-based pensions' system¹⁰ and establishes flexibility to retire and conditions for different kind of pensions¹¹. The method of legal research is helpful to examine the content of relevant social security norms, similarly evaluating the new pension reform of 2017 pertinent for the postponement of retirement. However, the analysis of the Finnish Employees Pensions Act is combined with the examination of the practical effect of the Finnish social security law, aiming to identify and scrutinize non-legal factors influencing the prolongation of working careers. Consequently, the existing statistics and other research studies conducted in Finland on attitudes of employers and employees towards the postponement of retirement are examined. The analysis of the non-legal factors is helpful as it assists in better concluding whether the Finnish social security norms granting a possibility to postpone retirement are effective and whether the elderly are in fact inclined to continue working after reaching certain retirement age. The concurrent analysis of both aspects will eventually help to decide whether the Finnish social security legislation offers a good legal model for the prolongation of working careers in other Member States of the EU and what can be done to safeguard a better functioning of a modern pension system having an objective to encourage the prolongation of working careers.

Because of the language reason this research will mostly refer to English translations of relevant Finnish national legislation and publications in English analysing both legal and non-legal aspects related to the postponement of retirement in Finland.

⁹ Employees Pensions Act of Finland, No. 395/2006 (with amendments up to 1097/2008).

¹⁰ This Article will neither analyse voluntary supplementary pension schemes nor national pension aimed at providing a minimum pension security to Finnish pensioners with insufficient earnings-related pension or none pension at all.

¹¹ It must be mentioned in this context that this Article does not intend to analyse Finnish labour law from the perspective of working beyond retirement age and the postponement of retirement in Finland.

2. RELEVANT PROVISIONS OF THE FINNISH EMPLOYEES PENSIONS ACT WITHIN THE CONTEXT OF POSTPONED RETIREMENT

The Finnish social security law sets principal social security rules related to the earnings-based pensions' system relevant for employment beyond retirement age. The Employees Pensions Act is the most extensive social security law regulating pensions applicable to private sector employees¹². Certain provisions of the Employees Pensions Act are of significance for this research, in particular connected with different retirement options and thus entitling Finnish employees to divergent kind of possibilities to withdraw from the labour market, which can *de facto* influence retirement time. These provisions include rules regulating flexibility to retire between the ages of 63 and 68, the right to the old-age pension, the part-time pension and the disability pension. Hence the content of the abovementioned legal norms must be researched to the effect it makes possible to conclude whether they encourage or, contrarily, can discourage aged Finns to prolong their working careers and, whether, as a result, such legal provisions as a whole can be offered as exemplary to other Member States of the EU aiming to encourage working beyond retirement age.

2.1. Flexible Retirement Age and the Old-Age Pension

Flexible retirement between the ages of 63 and 68 in Finland was introduced with the pension reform of 2005 and was primarily aimed at prolonging working lives of elderly employees¹³, intending to postpone retirement¹⁴ and adjust pensions 'to increased life expectancy'¹⁵. Flexible retirement is thus innovative and gives a

¹² Employees Pensions Act, Section 1. The biggest part of all Finnish employees is employed in the private sector. According to the data of Statistics Finland – a public authority established specifically for statistics – there are around 2 387 000 employed persons in Finland: Statistics Finland (2015), *Unemployment rate 9.2 per cent in December*. Retrieved January 2016 from http://www.stat.fi/til/tyti/2015/12/tyti_2015_12_2016-01-27_tie_001_en.html. Around 74 per cent of all persons employed in Finland work in the private sector: United Nations Economic Commission for Europe (2015), *Labour Force and Wages*. Retrieved November 2015 from <http://w3.unece.org/pxweb/dialog/Saveshow.asp?lang=1>. See also Hietaniemi and Ritola (n 3) 169–173.

¹³ Ilmakunnas, P., Ilmakunnas, S. (2006), 'Gradual Retirement and Lengthening of Working Life', *Helsinki Center of Economic Research papers*, 121, pp. 6.

¹⁴ Ilmakunnas and Takala (n 2) 688.

¹⁵ Kangas, O., Lundberg, U., Ploug, N. (2010), 'Three Routes to Pension Reform: Politics and

chance to Finnish employees of making their own individual decision on the best time to retire¹⁶. Particular aspects related to flexibility of the old-age pension and relevant for working beyond retirement age must be scrutinized in this context.

Firstly, the interval of 5 years during which the decision to retire is made and its interrelation with pension accrual rates. In conformity with the Employees Pensions Act, employees can freely make their own choice of when to retire between the ages of 63 and 68¹⁷ 'without reducing pension amount'¹⁸. That is advantageous as this interval is rather long what makes it easier to choose the most suitable retirement time. Furthermore, the Employees Pensions Act institutes that the pension accrual from annual earnings until the age of 53 is 1.5 per cent and 1.9 per cent between the ages of 53 and 63. The pension accrual rate, however, amounts to even 4.5 per cent for those working pensioners who have already reached the lowest age limit of 63 years and is applicable until the age of 68¹⁹.

Since the amount of the old-age pension depends on annual incomes of the employee and the percentage of these incomes based on age, the latter increased accrual rate can be regarded as an important financial incentive for the elderly to stay longer in employment and ensure a decent level of the future pension²⁰. Therefore, those aged Finns who continue working after turning to 63 years can increase their pension much more due to the accelerated accrual rate.

Moreover, every additional year at work guarantees a right to a higher pension in the future, as pension rights hence accumulate for a greater number of years²¹, what assures that less savings are needed to achieve a desired income level at the time of retirement²². On the contrary, an employee can take his/her pension early at the age of 62. However, in the latter case the pension level is decreased

Institutions in Reforming Pensions in Denmark, Finland and Sweden', *Social Policy and Administration*, 44(3), pp. 274.

¹⁶ P. and S. Ilmakunnas (n 14) 6.

¹⁷ Employees Pensions Act, Section 11.

¹⁸ Nordic Social Statistical Committee (2009), *Do the Nordic Welfare Systems Encourage 60–74 Year-Olds to Work?* Retrieved September 2015 from <http://nowbase.org/~media/Projekt%20sites/Nowbase/Publikationer/Andre/Do%20the%20Nordic%20Welfare%20Systems%20Encourage.ashx>.

¹⁹ Pension no longer accrues after the age of 68. See in particular Employees Pensions Act, Section 64.

²⁰ Kangas, Lundberg and Ploug (n 16) 274.

²¹ Do the Nordic Welfare Systems Encourage 60–74 Year-Olds to Work? (n 19) 73, 93.

²² *Ibid* 31.

by 0.6 per cent for each month until the age of 63²³. Thus the possibility to take the old-age pension only one year earlier than the lowest possible flexible retirement age limit and the reduction of the early pension itself can be likewise regarded as stimulus of staying longer in the labour market²⁴.

Secondly, a possibility to receive both – a salary and a pension²⁵ without any limitations²⁶ – can be a motivation to continue working. After the pension reform of 2005 aged Finns receiving their pension have an unlimited right to work until the age of 68²⁷ or longer on the condition that they reach an agreement with their employer²⁸. Thus retirement is combined with employment,²⁹ implying that additional pension rights while working after being retired accrue³⁰ and future incomes increase.

This kind of ‘flexible combination of work and retirement’³¹ raises two issues. Above all, the decision to retire must be very carefully measured as in order to receive the old-age pension, an employee must actually retire. That means that he/she can no longer continue the same employment relationship with the employer from whom such an employee retires³². That is problematic as old age can create obstacles of finding another job and thus re-entering the labour market. Nevertheless, if a retired Finnish employee manages to find a new employment with the same or another employer or if his/her previous employer from whom this employee retires further encourages employment, such aged employee can continue working immediately after he/she decides to retire thus increasing his/her monthly incomes and improving his/her financial position by receiving the salary and the pension at the same time. It is of importance to emphasize that the accrual rate for working pensioners is reduced and amounts to 1.5 per cent of annual incomes regardless of age³³. Notwithstanding that, having used their

²³ Employees Pensions Act, Section 11.

²⁴ Forma, P., Tuominen, E., Väänänen-Tomppo, I. (2005), ‘Who wants to continue at work? Finnish pension reform and the future plans of older workers’ *European Journal of Social Security*, 7(3), pp. 233.

²⁵ Employment Pensions Act, Section 67.

²⁶ P. and S. Ilmakunnas (n 14) 7.

²⁷ Employees Pensions Act, Section 4.

²⁸ Employment Contracts Act, Section 1a of Chapter 6.

²⁹ P. and S. Ilmakunnas (n 14) 7.

³⁰ Ibid 1.

³¹ Forma, Tuominen and Väänänen-Tomppo (n 25) 234.

³² Employees Pensions Act, Sections 11 and 13. See also Hietaniemi and Ritola (n 3) 24.

³³ Employees Pensions Act, Section 67. See also Hietaniemi and Ritola (n 3) 22.

chance to work after being retired, aged Finnish employees gain an additional pension³⁴ and simultaneously receive the salary and the pension. That creates motivation for staying longer in the labour market.

Thirdly, aged Finns still have a possibility to continue working even after becoming 68 years of age on the condition that they have reached an agreement with their employer³⁵. In the latter case they can stay active in the labour market much longer, what grants a possibility to receive a so called *deferred pension*. Pursuant to the Employees Pensions Act, the deferred pension is increased by 0.4 per cent for each deferred month after the age of 68 and is calculated on the basis of the pension accrued by the end of the month during which the employee becomes 68 years old³⁶. The deferred pension cannot be confused with the pension accrual as after the age of 68 the pension no longer accrues³⁷. However, the increase of 0.4 per cent of the deferred pension is significant and can thereby be regarded as another important encouragement for continuation of employment in Finland.

Fourthly, all life incomes earned from the age of 18 until the age of 68 are taken into account when calculating pensionable earnings³⁸ and 'there are no qualifying criteria dependant on the length of the work history'³⁹. In addition, there are no upper limits for pensionable incomes⁴⁰. The latter rule was introduced with the pension reform of 2005, changing the previous requirement that the pension cannot exceed 60 per cent of the highest salary within the working career⁴¹. The abovementioned provisions imply that all life earnings of the future pensioner make sense, since staying longer in employment can likewise improve anticipated incomes of the pensioner⁴² and create a stronger link between earnings

³⁴ Do the Nordic Welfare Systems Encourage 60–74 Year-Olds to Work? (n 19) 31.

³⁵ Employment Contracts Act, Section 1a of Chapter 6. Pursuant to the Employment Contracts Act employment contract is terminated automatically when the employee becomes 68 years of age.

³⁶ Employees Pensions Act, Section 12.

³⁷ *Ibid*, Sections 4 and 64.

³⁸ *Ibid*, Sections 63 and 70.

³⁹ Hietaniemi and Ritola (n 3) 21.

⁴⁰ Kyrrä, T. (2010), 'Early retirement policy in the presence of competing exit pathways: Evidence from policy reforms in Finland', *Government Institute for Economic Research working papers*, 17, pp. 7.

⁴¹ P. and S. Ilmakunnas (n 14) 7.

⁴² Hietaniemi and Ritola (n 3) 125.

and future benefits⁴³. This is another feature of the modern pension system⁴⁴ and an incentive for the postponement of retirement stimulating the elderly to acquire the longest possible working history.

In summary, since flexibility is the main principle and element of the Finnish old-age pension system, pertinent provisions of the Employees Pensions Act regulating flexible retirement time and the principles for calculation of the old-age pension encourage aged Finns to voluntarily postpone their retirement and stay longer active in the labour market. That implies that the Employees Pensions Act creates an interest, but not the obligation, for aged Finnish employees to stay longer employed and motivates them to achieve a more attractive future pension level. That is a motivation why the Finnish flexible old-age pension model can be offered as an example to other Member States of the EU, wishing to increase the participation of the elderly in the labour market, to enhance their well-being and to improve their financial situation. However, since a properly functioning and modern pension system requires a well-organized pension financing system, not every Member State of the EU can afford paying a pension based on the Finnish flexible retirement model. That can be an obstacle for the postponement of retirement and the prolongation of working careers.

2.2. Part-Time Pension as a Gradual Retirement and the Expression of Flexibility of the Finnish Retirement System

The part-time pension was originally considered as the most significant part of the flexible retirement system⁴⁵ in Finland in view of the fact that an employee intending to retire part-time is entitled to initiate an agreement with his/her employer on the future continuation at work without completely withdrawing from the labour market⁴⁶.

⁴³ Börsch-Supan, A. (2005), 'The 2005 Pension Reform in Finland', *Finnish Centre for Pensions Working Paper*, 1, pp. 47.

⁴⁴ Ibid.

⁴⁵ Delsen, L. (1996), 'Gradual Retirement: Lessons from the Nordic Countries and The Netherlands', *European Journal of Industrial Relations*, 2(1), pp. 61, 65; Blackham, A. (2015), 'Rethinking Working Time to Support Older Workers', *International Journal of Comparative Labour Law and Industrial Relations*, 31(2), pp. 61.

⁴⁶ P. and S. Ilmakunnas (n 14) 1.

Pursuant to the Employees Pensions Act, those employees between the ages of 61 and 67 who do not receive any other type of the pension (for example, the old-age pension) and who have opted for a part-time work are entitled to receive the part-time pension⁴⁷. The employee's willingness to reduce his/her working time and to transfer from full-time to part-time after discussing this chance with his/her employer must also exist. Moreover, the employee must have the working history of at least of 12 years and must have collected earnings from the gainful employment for at least 15 years preceding the start of the part-time pension⁴⁸.

It must be highlighted that if an employee decides to retire part-time, he/she must consider the fact that his/her earnings decrease as the amount of the part-time pension equals to 50 per cent of the difference between earnings from full-time work and earnings from part-time work⁴⁹. However, an employee who retires part-time can collect new pension rights both from working part-time and from the difference between full-time and part-time salary⁵⁰, what is a motivation to stay longer in employment.

There is a discussion whether the part-time pension is designed at prolonging working lives or, contrarily, discourages to stay longer in the labour market. It is agreed that the part-time pension is a tool of lengthening working careers, coping with the problem of ageing and a very important part of flexible retirement age⁵¹. It is likewise considered that the part-time pension ensures 'a more gentle transition from work to retirement'⁵² and is hence a method for prolonging working careers and 'coping with the problem of ageing'⁵³. In addition, the part-time pension aims at providing 'an alternative for older people with reduced working capacity or motivation who might otherwise withdraw from employment entirely'⁵⁴ and can postpone full-time retirement⁵⁵. Moreover, the part-time pension leaves room for individual retirement decisions, particularly on such occasions when

⁴⁷ Employees Pensions Act, Sections 16 and 24. Part-time pension is converted into old-age pension at the age of 68.

⁴⁸ Employees Pensions Act, Section 16.

⁴⁹ *Ibid*, Section 17.

⁵⁰ P. and S. Ilmakunnas (n 14) 19.

⁵¹ Delsen (n 46) 120.

⁵² Do Rosario Palma Ramalho, M. (2013), 'Age Discrimination, Retirement Conditions and Specific Labour Arrangements: The Main Trends in the Application of Directive 2000/78/EC in the Field of Age Discrimination', *European Labour Law Journal*, 4(2), pp. 114.

⁵³ Delsen (n 46) 65.

⁵⁴ Kyyrä (n 41) 7.

⁵⁵ *Ibid*.

the elderly face health problems, have a reduced working capacity⁵⁶ or wish 'to adapt the number of hours worked to their personal preferences'⁵⁷. Eventually, the part-time pension can be regarded as a flexible combination of employment and pension making it easier to increase participation in the labour market⁵⁸ and enabling employees to flexibly and gradually transfer from work to retirement⁵⁹.

The part-time pension, however, can likewise have negative outcomes as it implies costs for the whole retirement system and can negatively affect the financing of pensions in general⁶⁰. An employer must also be willing to agree with his/her employee's wish to start working part-time⁶¹. That indicates that if the Finnish employer is not in favour of the part-time retirement⁶², the employee can 'be forced' to indefinitely withdraw from the labour market or continue working in worse working conditions⁶³.

It can be deduced that, on the one hand, the part-time pension is obtained by those employees who fulfil rather strict criteria and who possess a relatively longish working career. Moreover, the employee cannot voluntarily decide that he/she wishes to obtain the part-time pension – the employer must also agree on the part-time continuation at work thus making the possibility to obtain the part-time pension dependent on his/her own intentions and business model. However, negative impact on the financing of pensions is the main barrier of accepting the suitability of the Finnish part-time pension model and using it as an example for other Member States of the EU facing problems in managing their finances necessary for the whole retirement system. Nevertheless, on the other hand, the Finnish part-time pension is an expression of the principle of flexibility, which similarly permits the elderly, having considered their abilities to work and their financial situation, to not definitely withdraw from the labour market but to continue working under reduced working hours and in such a way postpone their retirement. The part-time pension gives a chance to aged Finns with redu-

⁵⁶ P. and S. Ilmakunnas (n 14) 5.

⁵⁷ Delsen (n 45) 63.

⁵⁸ Forma, Tuominen and Väänänen-Tomppo (n 25) 234.

⁵⁹ P. and S. Ilmakunnas (n 14) 4.

⁶⁰ Ibid 5.

⁶¹ Kyyrä (n 41) 7.

⁶² Ibid.

⁶³ An incentive to withdraw from the labour market can be poor health, bad working conditions and working atmosphere, no support from the employer. See Chapters 4.1 and 4.2 of this Article.

ced working capacity to work shorter in time but still remain active in the labour market. That is an incentive for considering the Finnish part-time pension model as an example for other Member States of the EU aiming to encourage the participation of the elderly in the labour market.

2.3. Effects of Disability Pension on Postponed Retirement in Finland

Regarding the fact that many Finns end employment on the disability pension and have no intention to stay longer active in the labour market⁶⁴, the disability pension can also have an impact on retirement time in Finland⁶⁵.

The disability pension can be obtained due to an illness, injury or handicap that occurred during an uninterrupted period of at least one year⁶⁶ considering the decreased working capacity⁶⁷. Foremost, the disability pension is regarded as an early pension⁶⁸, since it can no longer be paid to an employee who is entitled to the old-age pension. That proposes that the disability pension can already be taken at a younger age than the lowest possible flexible retirement age of 63 years pursuant to the Employees Pensions Act⁶⁹ and can be a motive to smoothly switch from one pension to another, what does not create any inducement to stay in the labour market. Moreover, the amount of the full disability pension is rather high and comprises the total amount of the pension accrued by the end of the year preceding the probability to receive the disability pension and the projected pension⁷⁰. As a result, knowing that stable and dense incomes are guaranteed, Finnish employees can have no impetus to search for a gainful employment even though being not fully disabled and still having chances to work part-time.

Employee's possibilities of rehabilitation must be investigated before the pension provider decides on the disability pension⁷¹. This provision of the Employees

⁶⁴ Ilmakunnas and Takala (n 2) 681.

⁶⁵ Forma, Tuominen and Väänänen-Tomppo (n 25) 230–231.

⁶⁶ Employees Pensions Act, Section 35.

⁶⁷ Ibid.

⁶⁸ P. and S. Ilmakunnas (n 13) 6; Forma, Tuominen and Väänänen-Tomppo (n 25) 231.

⁶⁹ Employees Pensions Act, Section 35.

⁷⁰ Projected pension is a pension, which would have been accrued had the employees been able to continue working until the lowest age limit of 63 years for starting receiving old-age pension. A partial disability pension comprises half of the full disability pension. See Employees Pensions Act, Sections 38 and 66.

⁷¹ Employees Pensions Act, Section 36.

Pensions Act is aiming to ensure that the disability pension is considered as the last possible means, since it has an objective to prevent such situations, when employees end up on disability pensions even though their working capacity has only slightly decreased. It can also be regarded that this legal norm aims to ensure that health, working capacity and occupational well-being of Finnish employees, in particular older ones, are safeguarded and that their healthy habits at work are promoted, so that productivity of every single employee is increased and that he/she is not forced to leave the labour market due to disability.

Eventually, the Employees Pensions Act safeguards that the state of disability is controlled by the pension provider and can be suspended if the employee finds gainful employment, refuses medical examinations or rehabilitation arranged by the pension provider⁷². Considering the fact that old age can be disadvantageous when looking for a job, it can be maintained that, on the one hand, having stable incomes from the disability pension is a motive for not being employed, in particular for those Finns who are nearly the lowest flexible pensionable age of 63 years⁷³. However, on the other hand, medical examinations and rehabilitation arranged are important implying that if any condition for obtaining the disability pension is not met, the provision of the disability pension is discontinued and the employee has to search for a gainful employment. That can be perceived as a stimulus for staying longer active in the Finnish labour market.

To conclude, the Finnish disability pension guarantees for those Finns, who have not reached the lowest flexible retirement age of 63 years a certain income level, which can be a discouragement of the postponement of retirement and can stimulate the elderly to smoothly switch from the disability pension to the old-age pension despite the fact that they still have a possibility to search for a job, at least part-time. That can cause the same problem for other Member States of the EU aiming to postpone retirement of the aged part of their population. However, by instituting the duty of the pension provider to control the state of disability and obliging to firstly investigate the likelihood of rehabilitation, the Finnish Employees Pensions Act aims to guarantee that health and productivity of every single employee is primarily increased so that he/she is not forced to afterwards leave the labour market due to disability. This requirement can have

⁷² Employees Pensions Act, Sections 46–50.

⁷³ Employees Pensions Act, Section 63(3): pension also accrues from periods on the disability pension.

a positive impact on other Member States of the EU, which have an objective to improve the employability of the elderly.

3. WHAT NEXT? 2017 PENSION REFORM AND ITS IMPLICATIONS ON LATE RETIREMENT

There was a political decision in 2014 to reform the existing earnings-related pension system in Finland starting from the beginning of 2017, which has been followed by the Agreement on the 2017 pension reform reached in 2015 between different employers' and employees' organisations⁷⁴.

The 2017 pension reform was initiated due to a rapidly growing number of the elderly in the ageing Finnish population, thereby targeting the goal to extend working careers, and as a result of what the need to ensure a necessary financing of the pension system⁷⁵, raise the current effective retirement age⁷⁶ and improve the employment of jobless aged Finns⁷⁷. In view of the fact that the 2017 pension reform will have an impact on a big part of the working generation, namely

⁷⁴ Finnish Centre for Pensions (2014), *Preliminary consequence analysis of the results of the 2017 pension reform negotiations, 18 December 2014*. Retrieved September 2015 from http://www.etk.fi/fi/gateway/PTARGS_0_2712_3312_1628_4830_43/http%3B/content.etk.fi%3B7087/publishedcontent/publish/etkfi/fi/sis%C3%A4lt%C3%B6sivut/el%C3%A4kej%C3%A4rjestelm%C3%A4t/el%C3%A4kej%C3%A4rjestelm%C3%A4_muutoksessa/lainmuutosten_taustoja/el%C3%A4keuudistus_2017/etk_vaikutusarvio_181214_en.pdf. Agreement was reached between the Confederation of Finnish Industries, the Commission for Church Employers, the Local Government Employees, the Central Organisation of Finnish Trade Unions, the Finnish Confederation of Professionals and the Office for the Government as Employer.

⁷⁵ Confederation of Finnish Industries (2014), *Proposal for Content of Pension Reform Completed in September 2014*. Retrieved September 2015 from <http://ek.fi/en/current/2014/09/26/proposal-for-content-of-pension-reform-completed-in-september-2014/>.

⁷⁶ Preliminary consequence analysis of the results of the 2017 pension reform negotiations (n 74) 7. A big number of Fins still retire earlier than they are entitled to, most often before they reach the lowest flexible retirement age of 63 years. Individual reasons encouraging / discouraging the elderly to stay longer in employment are thoroughly examined in Chapter 4.1 of this Article.

⁷⁷ Finnish Centre for Pensions (2014), *Newsletter No. 5/2014 on Pension Reform 2017: Agreement, Consequence Analysis and Calculator*. Retrieved September 2015 from http://www.etk.fi/en/gateway/PTARGS_0_2712_499_770_3448_43/http%3B/content.etk.fi%3B7087/publishedcontent/publish/etkfi/en/uutiset/uusi/agreement_on_2017_earnings_related_pension_reform_final.pdf.

on those born in 1955 or later⁷⁸, the evaluation of relevant provisions of the aforesaid Agreement is needed.

The main amendment associated with the old-age pension is the gradual increase of the lowest flexible retirement age as of 1 January 2017 until the lowest age limit reaches 65 years and the upper limit becomes 70 years⁷⁹. Currently applicable pension accrual rates will be equalized inasmuch as the annual pension accrual rate for employees of all age categories starting with the age of 17 years and ending with the upper limit of the pensionable age will be fixed to 1.5 per cent⁸⁰, similarly introducing an additional increment for a deferred retirement of 0.4 per cent for each deferred month. It must be emphasized that this amendment is essential as the increment for a deferred retirement will be applied from the earliest eligible retirement age instead of 68 years pursuant to the current version of the Employees Pensions Act⁸¹. It is therefore evident that the 2017 pension reform has not changed the essence of the old-age pension based on the principle of flexibility. However, amendments related to elevation of the flexible retirement age and the special additional increment for every deferred month in an earlier age already intend to have a big influence on the further postponement of retirement, will compensate the effects of the reduction of elevated accrual rates and will safeguard a decent level of the future pension.

The part-time pension will be abolished from the beginning of 2017. However, a new *partial early old-age pension* will be created, which will be available as of 61 years (from the beginning of 2025 – as of 62 years) and will comprise 25 or 50 per cent of the pension that has already accrued. Even though there will be no specific preconditions similarly eliminating a requirement to work part-time for the partly early old-age pension, a reduction for an early retirement amounting to 0,4 per cent for each month before the applicant reaches the earliest eligibility age for the old-age pension will be introduced⁸². It is hence obvious that a newly created partly early old-age pension correlates to the postponement of retirement, inasmuch as the amount of this pension is decreased and that a particular

⁷⁸ Ibid 3.

⁷⁹ Ibid 3–4. The earliest eligibility age for the old age pension will be raised by 3 months per year.

⁸⁰ Ibid. There will be a transitional period until 31 December 2025 during which the pension accrual between the ages of 53 and 62 will amount to 1,7 per cent of the annual pensionable earnings.

⁸¹ Ibid 2.

⁸² Pension Reform (n 78) 3.

high reduction for an early retirement is instituted, encouraging the continuation of employment but not withdrawing from the labour market as soon as possible.

The 2017 pension reform revised the disability pension the least. However, supplementing the disability pension, the *years-of-service pension* has been newly introduced. This type of pension will be granted to those employees who have had mentally or physically hard jobs, have worked for at least 38 years and who have reached the age of 63 years⁸³. It is obvious that the years-of-service pension, as well as the disability pension, is an early pension, which can be granted at the age of 63 instead of the increased lowest flexible retirement age limit of 65 years. However, taken from the perspective of eligibility, the years-of-service pension can be observed as another incentive to continue working with a view of obtaining a longish working career of 38 years and thus ensuring a decent future income level.

To conclude, even though the 2017 pension reform will differently affect diverse age groups of the Finnish population and despite the fact that concrete outcomes will not be immediate⁸⁴, positive effects on the increase of the future pension level and the extension of working careers can be expected. This proposition is supported by the fact that this reform retains the main principle of flexibility of the whole Finnish retirement system, concurrently introducing more measures, which stimulate working beyond pensionable age and positively influence chances of the elderly to stay longer in employment. These amendments are very much related to the need of ensuring a proper financing of the whole pension system, which is of significant importance for other Member States of the EU, facing a growing number of the elderly in society and aiming to increase their participation in the labour market. That creates more reasons for considering the Finnish pension system as a model.

⁸³ Finnish Centre for Pensions (2015), *Executive summary of the Report No. 02/2015 'Projections on the effects of the 2017 earnings-related pension reform'*. Retrieved November 2015 from http://www.etk.fi/fi/gateway/PTARGS_0_2712_459_440_3034_43/http%3B/content.etk.fi%3B7087/publishedcontent/publish/etkfi/fi/julkaisut/tutkimusjulkaisut/raportit/laskelmia_vuoden_2017_tyoelakeuudistuksen_vaiikutuksista_9.pdf.

⁸⁴ Preliminary consequence analysis of the results of the 2017 pension reform negotiations (n 75) 26–27.

4. NON-LEGAL ASPECTS RELATED TO THE DECISION OF THE POSTPONEMENT OF RETIREMENT IN FINLAND

In accordance with the data of Statistics Finland, almost thirty per cent of Finnish employees are in favour of the postponement of retirement⁸⁵. However, the position of aged employees themselves is contradictory. On the one hand, they estimate to continue working after the age of 63⁸⁶. On the other hand, most elderly consider that the upper retirement age limit of 68 years is too high⁸⁷ and that the best time to retire is between the ages of 63 and 65⁸⁸. The practice even shows that Finns retire several years earlier – often at the age of 59⁸⁹ – before reaching the lowest retirement age limit of 63 years⁹⁰.

It is essential to identify non-legal aspects provoking such different opinions, since they can influence the decision to continue working beyond retirement age. These are individual reasons encouraging / discouraging aged Finns to stay longer in the labour market and the attitude of Finnish employers towards their aged employees. The position of both contracting parties of the employment relationship interact with each other, inasmuch as continuation of employment is possible on the condition that the elderly are willing to continue working and employers are ready to employ them. That will also help to ascertain whether

⁸⁵ Statistics Finland (2014), *Employees' estimates about their age of retirement have risen considerably*. Retrieved June 2015 from http://www.stat.fi/til/tyoolot/2013/01/tyoolot_2013_01_2014-04-09_tie_001_en.html.

⁸⁶ Finnish Centre for Pensions (2014), *Executive summary of the Report No. 08/2014 on Working conditions and retirement intentions 2013*. Retrieved June 2015 from http://www.etk.fi/fi/gateway/PTARGS_0_2712_459_440_3034_43/http%3B/content.etk.fi%3B7087/publishedcontent/publish/etkfi/fi/julkaisut/tutkimusjulkaisut/raportit/tyoolot_ja_elakeajatukset_2013_9.pdf.

⁸⁷ Finnish Centre for Pensions (2013), *Working paper, No. 03/2013 on Flexible retirement age in Finland. The evaluation of the Finnish flexible retirement scheme in light of employer and employee surveys*. Retrieved June 2015 from http://www.etk.fi/fi/gateway/PTARGS_0_2712_459_440_3034_43/http%3B/content.etk.fi%3B7087/publishedcontent/publish/etkfi/fi/julkaisut/tutkimusjulkaisut/keskustelualoitteet/flexible_retirement_age_in_finland_the_evaluation_of_the_finnish_flexible_retirement_scheme_in_light_of_employer_and_employee_surveys_7.pdf.

⁸⁸ Ilmakunnas and Takala (n 2) 688.

⁸⁹ Nousiainen, K. (2015), 'Age Discrimination and Labour Law in Finland: Legal Treatment of Younger and Older Workers in Ageing Society', in Numhauser-Henning, A. and Rönmar, M. (eds.), *Age Discrimination and Labour Law. Comparative and Conceptual Perspectives in the EU and Beyond* (volume 47), the Netherlands, Kluwer Law International, pp. 182.

⁹⁰ Ilmakunnas and Takala (n 2) 684.

previously examined legal norms of the Employees Pensions Act have a real effect on working beyond retirement age in Finland.

4.1. Individual Reasons Encouraging / Discouraging the Elderly to Stay Longer in Employment

Individual reasons related to the person of the aged Finnish employee can be divided into two different categories – work-related and non-work-related. Work-related reasons show, whether a single employee has an interest and (or) capability to stay in the labour market and how he/she perceives his/her chances to continue working beyond retirement age. To put it differently, there must be a chance or a choice of staying employed at an old age⁹¹.

As different surveys of the Finnish Centre for Pensions have shown, working conditions is the main work-related reason for a decision to retire⁹², inasmuch as employees who are satisfied with their jobs are more inclined to retire later⁹³. Above all, good working conditions and working atmosphere at all organisational levels do matter a lot in Finland⁹⁴. These are flexible working hours, opportunity to learn and be trained, equal treatment, possibility to get promoted at an older age, interesting tasks, well-functioning occupational healthcare, integrating staff policy, cooperation and support by the supervisor⁹⁵. In other words, a motivating working position, job security and non-discrimination at work can stimulate a decision to retire later⁹⁶. On the contrary, stress at work, physically demanding job, little autonomy can push employees to withdraw from the Finnish labour market⁹⁷.

Furthermore, different working conditions are important for divergent groups of Finnish employees⁹⁸. On the one hand, good working environment (less physical / chemical hazards), which influences the health condition, is of significance for the prolongation of working careers of *blue-collar workers*. On the other

⁹¹ Gould (n 8) 519–520.

⁹² Report on working conditions and retirement intentions in Finland (n 87) 1.

⁹³ Forma, Tuominen and Väänänen-Tomppo (n 25) 230.

⁹⁴ Ilmakunnas and Takala (n 2) 689; see also Forma, Tuominen and Väänänen-Tomppo (n 25) 244.

⁹⁵ Forma, Tuominen and Väänänen-Tomppo (n 25) 230.

⁹⁶ Gould (n 8) 524–528.

⁹⁷ Forma, Tuominen and Väänänen-Tomppo (n 25) 230.

⁹⁸ Ibid 244.

hand, good working atmosphere as a whole is more essential for a decision of *white-collar employees* to continue working, as mental strain is an incentive to leave employment earlier⁹⁹. Thirdly, those Finnish employees who work in customer services¹⁰⁰, executive positions¹⁰¹ or have a 'good educational background and higher occupational status'¹⁰² are more prone to postpone their retirement. Fourthly, support from employers' side and working cooperation makes it easier to prolong working careers¹⁰³. Working conditions can also be related to a labour market situation in general, implying that the better the situation is, the more chances the elderly have to stay in employment¹⁰⁴. As a result, good labour market situation has a positive impact on the postponement of retirement in Finland.

Other or non-work-related reasons show how an individual employee perceives his/her working life as a member of society and how important his/her decision to retire is. Such non-work-related reasons as family situation or leisure time¹⁰⁵ have a less evident impact on the prolongation of working careers in Finland. Nevertheless, some of them, such as socio-economic status, health and economic reasons, can influence retirement time¹⁰⁶.

Foremost, the position of the single employee in society affects his/her decision to retire, meaning that workers 'in lower socio-economic groups retire earlier than those in higher socio-economic groups'¹⁰⁷. Moreover, good health can be an incentive to continue working. Since health problems accentuate at the end of the working career, poor health can lead to a decision to start withdrawing a pension¹⁰⁸ and can thus be a hindrance for continuation in employment¹⁰⁹. In addition, financial incentives, such as compensational level of pensions, economic advantages provided by continuation at work and the household of the retiring

⁹⁹ P. and S. Iilmakunnas (n 14) 15.

¹⁰⁰ Report on working conditions and retirement intentions in Finland (n 87) 2–3.

¹⁰¹ Forma, Tuominen and Väänänen-Tomppo (n 25) 241.

¹⁰² Gould (n 8) 524.

¹⁰³ Working paper on flexible retirement age in Finland (n 88) 20–21; see also Forma, Tuominen and Väänänen-Tomppo (n 25) 242.

¹⁰⁴ Gould (n 8) 522.

¹⁰⁵ Working paper on flexible retirement age in Finland (n 88) 19.

¹⁰⁶ This influence, however, is not decisive; see Forma, Tuominen and Väänänen-Tomppo (n 25) 229–231, 244.

¹⁰⁷ Forma, Tuominen and Väänänen-Tomppo (n 25) 229–231.

¹⁰⁸ Piekkola, H. (2008), 'Flexible Pension Systems. Postponed Retirement and Distributional Fairness', *ENEPRI Research Report*, 61, pp. 9, 17; see also Forma, Tuominen and Väänänen-Tomppo (n 25) 240.

¹⁰⁹ Gould (n 8) 523.

employee, in particular for highly educated Finnish employees¹¹⁰ and the ones with high income¹¹¹, are of pertinence for continuation in employment¹¹². One of the main reasons is the accelerated accrual rate of 4.5 per cent¹¹³ between the ages of 63 and 68 raising the future pension level¹¹⁴. However, a reasonable amount of the early pension can at the same time be decisive for leaving the Finnish labour market earlier¹¹⁵.

Summing up, a combination of circumstances or a synthesis of chances and choices matter before an employee chooses to leave the labour market or decides to stay longer in employment. If aged Finns enjoy good working conditions, good health and financial incentives can be significant when deciding whether to leave the labour market and start withdrawing a pension in accordance with the Employees Pensions Act, or, contrarily, to continue working. Working conditions thus interrelate with non-work-related reasons at the end of the working career and can influence the time for retirement in Finland, inasmuch as aged employees having an opportunity to develop their occupational well-being are most inclined to stay longer in employment. Under this condition, the Employees Pensions Act creates an incentive for aged Finns to stay longer employed.

4.2. Position of Finnish Employers towards their Aged Employees

The research on the attitude of Finnish employers towards their aged employees is not that expansive as scientific studies on the position of employees regarding the postponement of retirement. However, since employers often 'are in key positions in the promotion of late retirement'¹¹⁶, their opinion about aged employees does matter a lot for the prolongation of working careers in Finland.

As the study performed by the Finnish Centre for Pensions has shown, more than half of all Finnish employers think that the postponement of retirement is an indispensable goal and that financial incentives are an effective tool for exten-

¹¹⁰ Piekkola (n 109) 13.

¹¹¹ Do the Nordic Welfare Systems Encourage 60–74 Year-Olds to Work? (n 19) 75.

¹¹² Forma, Tuominen and Väänänen-Tomppo (n 25) 231; P. and S. Ilmakunnas (n 14) 15.

¹¹³ Employees Pensions Act, Section 64. For more detail see Chapter 2.1 of this Article.

¹¹⁴ Working paper on flexible retirement age in Finland (n 88) 21–22.

¹¹⁵ Piekkola (n 109) 10.

¹¹⁶ Gould (n 8) 529.

ding working careers¹¹⁷. However, employers' willingness to employ aged Finns increases very slowly¹¹⁸ and even though they are in favour of in 2005 created flexible retirement system¹¹⁹, only a small part of private sector employers express their support towards working beyond retirement age¹²⁰.

Finnish employers are still against long lasting working careers. Employers who are in favour of the prolongation of employment consider that the lowest flexible retirement age limit of 63 years¹²¹ is acceptable. However, in agreement with the opinion of aged employees, the majority of employers support the continuation at work until the age of 65¹²² and estimate that the upper age limit of 68 years is too high. Nevertheless, if aged Finns express their wish to continue working after becoming 63 years of age, employers are interested in discussing with them their prospective retirement time and their opportunities of staying longer in the labour market¹²³. Hence the decision to postpone retirement is made co-operatively, implying that Finnish employers decide mutually with their employees on the further continuation at work and that retirement time is subject to employers' willingness and possibilities to further keep aged people in the labour market.

A favourable attitude towards aged employees is more expressed among those Finnish employers who hire *white-collar workers* and who operate in financial, insurance, healthcare, social, real estate and rental services industries. On the contrary, industries hiring *blue-collar workers*, such as farming, forestry, fishing and construction, have the most negative attitude towards aged employees,¹²⁴ indicating that retirement time is very much dependent on the specificity of the concrete industry. This interdependence interrelates with certain prejudices, i.e. the negative attitude of *blue-collar workers* and a more positive attitude of *white-collar workers* about the prolongation of working careers¹²⁵. If the opinion of the single Finnish employer is positive, as it is more often the case of employers hiring *white-collar workers*, he/she grants better working conditions to his/

¹¹⁷ Ilmakunnas and Takala (n 2) 688.

¹¹⁸ Working paper on flexible retirement age in Finland (n 88) 23, 26.

¹¹⁹ Ilmakunnas and Takala (n 2) 688.

¹²⁰ Working paper on flexible retirement age in Finland (n 88) 23–24.

¹²¹ Employees Pensions Act, Section 11.

¹²² Working paper on flexible retirement age in Finland (n 88) 15–16.

¹²³ *Ibid.*, 17–18.

¹²⁴ Working paper on flexible retirement age in Finland (n 88) 24–25.

¹²⁵ P. and S. Ilmakunnas (n 20) 15; Report on working conditions and retirement intentions in Finland (n 87) 2–3.

her aged employees and such employees are thus more willing to stay longer in the labour market. On the contrary, if the attitude of the Finnish employer is negative, as in the case of *blue-collar workers*, such employer is not interested in providing better working conditions of his/her aged employees, so that the latter are more prone to leave the labour market earlier.

To conclude, even though Finnish employers are ready to discuss with their aged employees concrete possibilities of the further continuation at work and assume that working beyond retirement age is a positive trend, they are still unfavourable to too lengthy working careers lasting up to 68 years and are not always ready to employ aged people. Such negative opinion of Finnish employers is mostly based on their prejudices related to the specificity of the industry and employers' unwillingness to consider the elderly as a useful labour force. Consequently, time will be needed to adapt the more 'theoretical' positive attitude of Finnish employers towards aged employees in order to further increase the support of the latter in the labour market. Under these circumstances aged Finns will be able to make full use of their choices or chances, created in the Finnish Employees Pensions Act, to retire later and prolong their working careers.

5. CONCLUSIONS

1. Flexibility is the main principle and element of the Finnish old-age pension system on which pertinent provisions of the Employees Pensions Act regulating flexible retirement time and the principles for calculation of the old-age pension are based. These provisions primarily create an interest, but not the obligation, for aged Finnish employees to voluntarily stay longer employed and motivate them to achieve a more attractive future pension level. That is a strong incentive why the Finnish flexible old-age pension model can be offered as an example to other Member States of the EU, wishing to increase the participation of the elderly in the labour market, to enhance their well-being and improve their financial situation. However, since a properly functioning and modern pension system requires well-organized pension financing, not every Member State of the EU can afford paying a pension based on the Finnish flexible retirement model. That can be an obstacle for the postponement of retirement and the prolongation of working careers.

The Finnish part-time pension is an expression of the principle of flexibility, which similarly permits the elderly, having considered their financial situation, to not definitely abandon the labour market but to continue working under reduced working hours and in such a way postpone their retirement. The part-time pension gives a chance to aged Finns with reduced working capacity to work shorter in time but still remain active in the labour market. That is a motive for considering the Finnish part-time pension model as an example for other Member States of the EU aiming to encourage the participation of the elderly in the labour market. However, it must be taken into consideration that the part-time pension is obtained by those employees who fulfil rather strict criteria and that the employee cannot voluntarily decide that he/she wishes to retire part-time – the employer must also agree on the part-time continuation at work thus making the possibility to obtain the part-time pension dependent on his/her own intentions and business model. Negative impact on pension financing is the main barrier of accepting the suitability of the Finnish part-time pension model and using it as an example for other Member States of the EU facing problems in managing their pension financing system, necessary for the whole retirement system.

The Finnish disability pension is an early pension, which guarantees a certain income level to those Finns who have not reached the minimum flexible retirement age. That implies that those Finnish employees who obtain the disability pension are no longer motivated to stay in the labour market and may wish to smoothly switch from the disability pension to the old-age pension despite the fact that they still have a possibility of finding a part-time job. Other Member States of the EU intending to postpone retirement of the elderly can face the same problem if they accept the Finnish disability-pension model. However, by instituting the duty of the pension provider to control the state of disability and obliging to firstly investigate the likelihood of rehabilitation, the Finnish Employees Pensions Act aims to ensure that health and productivity of every single employee must be primarily increased so that he/she is not forced to afterwards leave the labour market due to disability. This requirement can have a positive impact on the prolongation of working careers in other Member States of the EU wishing to reduce the number of the elderly leaving the labour market because of disability.

2. The 2017 pension reform will have positive effects on the extension of the future pension level and the prolongation of working careers in Finland, inasmuch as the main principle of flexibility of the whole Finnish retirement system is

retained and more measures, which stimulate working beyond pensionable age and which positively influence chances of the elderly to stay longer in employment, are introduced. These amendments are very much related to the need of ensuring a proper financing of the whole pension system, which is of significant importance for other Member States of the EU, facing a growing number of the elderly in society and aiming to increase their participation in the labour market.

3. A combination of circumstances or a synthesis of chances and choices matters before a single Finnish employee chooses to leave the labour market or, contrarily, decides to stay longer in employment. Working conditions is the most important reason for a decision to stay employed or, contrarily, leave the gainful employment and start withdrawing the pension. Working conditions interrelate with non-work related reasons at the end of the working career and can thus influence retirement time, inasmuch as aged employees, having an opportunity to develop their occupational well-being, are most inclined to stay in the labour market. Under this condition, the Finnish Employees Pensions Act creates an incentive for aged Finns to stay longer employed. However, if aged Finns are reluctant to use their chance to postpone retirement mostly because of worse working conditions, legal provisions of the Employees Pensions Act are not capable to encourage them to continue working beyond retirement age.

The attitude of Finnish employers towards the postponement of retirement is very much interrelated with the position of aged employees themselves, inasmuch as continuation of employment is possible on the condition that the elderly are willing to keep on working and that employers are willing to employ them. If the attitude of the employer is negative, he/she may be disinterested in granting better working conditions to his/her aged employees, so that the latter are more prone to leave the labour market. Contrary to that, if the position of the employer is positive, he/she usually grants better working conditions to his/her aged employees and is thus more willing to discuss their possible continuation at work. However, Finnish employers are still unfavourable to too lengthy working careers lasting up to 68 years and are not always ready to employ aged people. Such negative opinion of Finnish employers is mostly based on prejudices related to the specificity of the industry and employers' unwillingness to consider the elderly as a useful labour force. Consequently, time will be needed to adapt this attitude and to remove prejudices towards aged employees in order to further increase their support in the labour market and enable them making full use of

their choices and chances, created in the Finnish Employees Pensions Act, to postpone retirement.

4. Extensive social security legislation and good functioning pension financing system are not enough in order to cope with problems raised by the ageing society. The Finnish social security model will be successfully transposed to other Member States of the EU on the condition that prejudices related to the elderly are evaded, so that aged employees are encouraged to work on the basis of fair working conditions and enabled to improve their occupational well-being. Under these circumstances aged employees will be regarded as a useful labour force for every-day activities of different organisations and companies and will be able to retire later and thus prolong their working careers.

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Študija finskega primera zakonodaje s področja socialne varnosti o delu po upokojitveni starosti – ali je finska rešitev lahko model za druge države članice EU?

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Povzetek

1. Prožnost je glavno načelo in tisti element finskega sistema starostnega upokojevanja, na katerem temeljijo določbe pokojninskega zakona, ki urejajo prožno upokojevanje in podlage za izračun starostne pokojnine. Te zakonske določbe predvsem ustvarjajo interes, ne pa tudi obveznosti za starejše zaposlene osebe, da bi prostovoljno ostali dlje zaposleni in si tako zagotovili boljšo pokojnino. Taka ureditev je lahko močna spodbuda za to, da bi finski prožni model upokojevanja postal zgled za druge države članice EU, ki želijo povečati udeležbo starejših na trgu dela in tako izboljšati njihovo počutje in finančno stanje. Ker je za dobro delujoč, moderen pokojninski sistem potrebno ustrezno financiranje, si vse države članice EU ne morejo privoščiti izplačevanja pokojnin, kot ga izvaja Finska v okviru svojega prožnega modela upokojevanja. To lahko predstavlja oviro za odlog upokojitve in podaljševanje delovne kariere.

Finski model delne upokojitve je odraz načela prožnosti, ki omogoča starejšim, upoštevajoč pri tem njihovo finančno situacijo, da ne zapustijo trga dela dokončno, ampak da delajo s krajšim delovnim časom in tako odložijo upokojitve. Delna upokojitve daje starejšim zaposlenim z zmanjšano delovno kapaciteto priložnost, da delajo za krajši delovni čas, in tako še vedno ostanejo aktivni na trgu dela. To je lahko motiv za razmislek o tem, da bi finski sistem delnega upokojevanja uporabili tudi v drugih državah članicah EU, ki želijo povečati udeležbo starejših na trgu dela. Vendar pa je treba upoštevati, da se lahko delno upokojijo le tisti zaposleni, ki izpolnjujejo precej stroga merila in da se zaposleni ne more sam odločiti o tem, da bi se delno upokojil. Tudi delodajalec se mora – glede na svoje namene in poslovni model – strinjati z delno upokojitvijo svojega zaposlenega. Glavna ovira za sprejetje finskega modela delne upokojitve in morebitni prenos

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na ostale države članice EU je njegov negativni vpliv na financiranje pokojnin v državah, ki se soočajo s problemi pri upravljanju in financiranju pokojninskega sistema, kot ga zahteva celoten sistem upokojevanja.

Pri finski invalidski pokojnini gre za predčasno pokojnino ki zagotavlja določeno raven prihodkov tistim Fincem, ki niso dosegli minimalne delovne dobe po predpisih za prožno upokojevanje. To pa tudi pomeni, da tisti zaposleni, ki pridobijo invalidsko pokojnino niso več motivirani, da ostanejo na trgu dela. Želijo si gladek prehod z invalidske v starostno pokojnino kljub dejstvu, da bi lahko še dobili delo za krajši delovni čas. Druge države članice EU, ki bi po finskem vzoru nameravale odložiti upokojevanje starejših zaposlenih na kasnejši čas, se bodo lahko soočale z enakimi težavami. Vendar pa z uvedbo instituta, ki izplačevalca pokojnine zavezuje k nadzoru stanja invalidnosti in ugotavljanju možnosti za rehabilitacijo, finski pokojninski zakon (Finnish Employee Pension Act) stremi k temu, da bi predvsem zagotovil zdravje in produktivnost vsakega zaposlenega, da ji/mu kasneje ne bi bilo treba zapustiti trga dela zaradi invalidnosti. Ta institut lahko pozitivno vpliva na podaljševanje zaposlenosti tudi v drugih državah članicah EU, ki želijo zmanjšati število starejših zaposlenih, ki zapustijo trg dela zaradi invalidnosti.

2. Pokojninska reforma, ki bo stopila v veljavo leta 2017 bo imela pozitiven vpliv na povečanje zneska pokojnine in podaljšanje delovne aktivnosti, saj se ohranja glavno načelo prožnosti celotnega finskega pokojninskega sistema, poleg tega pa uvaja nove ukrepe, ki stimulirajo zaposlenost po dopoljenih pogojih za upokojitev in tako pozitivno vplivajo na možnosti starejših, da ostajajo zaposleni dalj časa. Te zakonske spremembe so močno povezane s potrebo po zagotavljanju ustreznega financiranja celotnega pokojninskega sistema, kar je bistvenega pomena tudi za druge države članice EU, ki se soočajo z vse večjim številom starejših ljudi in ki želijo povečati njihovo udeležbo na trgu dela.

3. Preden se finski zaposleni odloči, da zapusti trg dela, ali nasprotno, ostane še naprej zaposlen, je pomembno, da upošteva vse okoliščine ter priložnosti in izbire, ki jih ima na voljo. Delovni pogoji predstavljajo najpomembnejši razlog za nadaljevanje zaposlitve ali – nasprotno – za opustitev plačanega dela in posledično za upokojitev. Poleg delovnih pogojev na odločitve ob koncu delovne kariere in s tem na čas upokojitve vplivajo tudi razlogi, ki niso povezani z njimi, a so tisti zaposleni, ki imajo priložnost, da razvijajo svoje poklicne sposobnosti in se dobro počutijo na svojem delovnem mestu, bolj naklonjeni temu, da dlje

časa ostanejo na trgu dela. Upoštevajoč te okoliščine, finski pokojninski zakon ustvarja spodbude za starejše Fince, da ostanejo dlje zaposleni. Vendar pa, če priložnosti za odložitev upokojitve – predvsem zaradi slabših delovnih pogojev – ne želijo izkoristiti, jih zakonske določbe v pokojninskem zakonu ne morejo vzpodbuditi k podaljšanju zaposlitve preko upokojitvene starosti.

Odnos finskih delodajalcev do odloga upokojitve je tesno povezan s položajem starejših delavcev samih, saj je nadaljevanje delovnega razmerja mogoče pod pogojem, da so starejši pripravljene delati še naprej in da so jih delodajalci tudi pripravljene zaposlovati. Če je odnos delodajalca negativen, morda ne bo pripravljen zagotoviti boljših delovnih pogojev za svoje starejše zaposlene, zato se bodo slednji bolj nagibali k temu, da zapustijo trg dela. Nasprotno pa, če je odnos delodajalca pozitiven, bo po navadi svojim starejšim delavcem omogočil boljše delovne pogoje in se bo tudi bolj pripravljen pogajati o možnosti za podaljšanje zaposlitve. Vendar pa so finski delodajalci še vedno nenaklonjeni podaljševanju delovne dobe do 68. leta starosti in niso vedno pripravljene zaposliti starejših ljudi. Takšno negativno mnenje delodajalcev prvenstveno temelji na predsodkih povezanih s specifičnostmi delovnih mest in njihovo nepripravljenostjo, da bi starejše dojeli kot koristno delovno silo. Potreben bo čas za spremembo takega odnosa in odpravo predsodkov proti starejšim zaposlenim, da bi tako povečali njihovo podporo na trgu dela in jim omogočili, da v celoti izkoristijo izbire in priložnosti, ki jih glede odloga upokojitve omogoča finski pokojninski zakon.

4. Obsežna zakonodaja na področju socialne varnosti in dobro delujoč sistem pokojninskega financiranja nista dovolj za uspešno spopadanje s problemi, ki jih povzročata staranje prebivalstva. Finski model socialne varnosti bo lahko uspešno prenešen v druge države članice EU pod pogojem, da se izognejo predsodkom o starejših zaposlenih in da se jih spodbuja, da delajo pod pravičnimi pogoji, ki jim omogočajo, da izboljšajo svoje počutje na delovnem mestu. V takih okoliščinah bodo starejši zaposleni spoznani za koristno delovno silo za vsakodnevne dejavnosti v različnih organizacijah in podjetjih in bodo tako lahko delali dlje in se kasneje upokojili.