



January 2010

## **European Social Charter (revised)**

European Committee of Social Rights

Conclusions 2009 (FINLAND)

Articles 3,11,12, 13, 14, 23 and 30  
of the Revised Charter

*This text may be subject to editorial revision.*



## Introduction

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports; it adopts "conclusions" in respect of collective complaints, it adopts "decisions".

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.

*The Revised European Social Charter was ratified by Finland on 21 June 2002. The time limit for submitting the 4th report on the application of this treaty to the Council of Europe was 31 October 2008 and Finland submitted it on 14 January 2009. Letters were addressed to the Government requesting supplementary information regarding Articles 3§4, 11§1 and 13§4. The Government submitted its replies on 26 June and 1 July 2009.*

Comments on the Finnish report were submitted by the Central Organisation of Finnish Trade Unions, SAK.

This report concerned the accepted provisions of the following articles belonging to the thematic group "Health, social security and social protection":

- safe and healthy working conditions (Article 3),
- the right to protection of health (Article 11),
- the right to social security (Article 12),
- the right to social and medical assistance (Article 13),
- the right to benefit from social welfare services (Article 14),
- the right of elderly persons to social protection (Article 23),
- the right to protection against poverty and social exclusion (Article 30).

Finland has accepted all of these articles with the exception of 3§2 and 3§3.

The applicable reference period was: 1 January 2005 - 31 December 2007.

The present chapter contains 17 conclusions :

- 12 cases of conformity : articles 3§1, 3§4, 11§1, 11§2, 11§3, 12§3, 13§1, 13§3, 13§4, 14§1, 14§2 and 30
- 3 cases of non-conformity : articles 12§1, 12§4 and 23

In respect of the other 2 cases, that is articles 12§2 and 13§2 the Committee needs further information in order to assess the situation. The Government is therefore invited to provide this information in the next report on the articles in question.

The next Finnish report deals with the accepted provisions of the following articles belonging to the third thematic group “Labour rights”

- the right to just conditions of work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bargain collectively (Article 6),
- the right to information and consultation (Article 21),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- the right to dignity at work (Article 26),
- the right of workers’ representatives to protection in the undertaking and facilities to be accorded to them (Article 28),
- the right to information and consultation in collective redundancy procedures (Article 29).
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The deadline for the report was 31 October 2009.

*<sup>1</sup>The conclusions as well as state reports can be consulted on the Council of Europe’s Internet site ([www.coe.int/socialcharter](http://www.coe.int/socialcharter)).*

### **Article 3 - The right to safe and healthy working conditions**

#### *Paragraph 1 - Health and safety and the working environment*

The Committee takes note of the information contained in the report submitted by Finland.

The Committee examined the framework for the national safety and health policy, which falls within the remit of the Ministry of Social Affairs and Health. According to the report, the national policy is implemented through strategies and action plans in different sectors. Among the priorities set by the Ministry in 2006, well-being at work, especially mental well-being, was given special attention. The report also indicates that strategic projects are supported through research and development. The Ministry of Social Affairs and Health defines the areas of research and development in accordance with the global strategy on occupational safety and health and its goals. Follow-up of all research and development commissioned by the Ministry is undertaken in order to control their effectiveness.

The Committee reiterates its question as to whether there are strategies for making occupational risk prevention an integral aspect of the public authorities' activities at all levels and being part of other public policies (e.g. policies on employment, persons with disabilities, equal opportunities).

#### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation is in conformity with Article 3§1 of the Revised Charter.

### **Article 3 - The right to safe and healthy working conditions**

#### *Paragraph 4 - Occupational health services*

The Committee takes note of the information contained in the report submitted by Finland.

The report states that pursuant to the Health and Care Health Act (1383/2001) all employers have a duty to arrange occupational health care for all employees working for them. The report goes on to say that the aim of the aforementioned Act is to ensure that all necessary measures are taken to detect and eliminate risks at work and protect the health and safety of employees. The occupational health and safety authorities have a duty to ensure that employers have arranged such health services in accordance with requirements of the relevant legislation. The occupational safety and health authorities, whose powers are defined in the Act on the Supervision of Occupational Safety and Health Matters (131/1973), are entitled to obtain the agreements concerning health care services which have concluded within an enterprise, as well as the occupational health care plan and the survey of the workplace. The occupational safety and health authorities can order an employer to take all measures necessary to rectify any failure in this respect, failing which a fine will be imposed on them.

However, according to the comments received from the Central Organisation of Finnish Trade Unions (SAK), 10-16% of employees, mostly employees on short-term contracts, temporary workers and workers in the transport sector, are said not to have access to health services. Furthermore, the SAK considers that the quality of the services vary considerably from one unit providing healthcare to another, the occupational safety and health authorities allegedly not controlling the content of health care services. According to supplementary information provided by the Government, no statistics are available on the coverage of non-permanent workers by health services. However, while occupational healthcare can be provided to non-permanent staff in a different way than for other staff, the Supreme Court has held that employers may not, without justified reasons, provide health services of a different standard to different types of workers and the Employment Contracts Act provides that non-permanent contracts should not impose disadvantageous working conditions as compared to permanent contracts. As regards transport companies, no statistical data are available but it appears from the labour inspectorate's visits that the provision of health services varies significantly from one region to another, and that overall coverage is insufficient. However, supervision of transport companies has been increased to address this problem, part of it being now transferred to the police authorities. Given the progressive character of this provision of the Charter, the Committee asks to be kept informed of the progress made on the provision of health services for workers of the transport sector.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation is in conformity with Article 3§4 of the Revised Charter.

## **Article 11 - The right to protection of health**

### *Paragraph 1 - Removal of the causes of ill-health*

The Committee takes note of the information contained in the report submitted by Finland.

### *State of health of the population – General indicators*

The right to proper health services is enshrined in the Constitution.

#### *Life expectancy and principal causes of death*

Average life expectancy at birth in 2006 was 75.9 for men and 83.1 for women<sup>1</sup> (the EU 27 average in 2004 was 75.2 for men and 81.5 for women<sup>2</sup>). The mortality rate in 2006 was 6.05 per 1000<sup>3</sup> (the EU 27 average in 2006 was 6.48 per 1000<sup>4</sup>). The Committee asks what the main causes of mortality are. The Committee notes that, although they are not necessarily the most common cause of mortality, deaths as a result of suicide are more frequent in Finland (0.19 deaths per 1 000 inhabitants in 2006) than in other European countries (the EU 27 average was 0.1 deaths per 1 000 inhabitants in 2006) and this is also the case with deaths caused by accidents (0.46 per 1 000 inhabitants as compared with 0.26 per 1 000 inhabitants for the EU 27 in 2006) and by diseases of the nervous system (0.37 per 1 000 inhabitants as compared with 0.17 per 1 000 inhabitants in the EU 27 in 2006)<sup>5</sup>. The Committee asks what measures are taken to combat these causes of mortality.

#### *Infant and maternal mortality*

The infant mortality rate amounted in 2007 to 2.7 deaths per 1000 live births<sup>6</sup> (the EU 27 rate in 2006 was 4.7 per 1000<sup>7</sup>). The Committee asks what the main causes of infant mortality are.

As concerns the maternal mortality rate, the Committee notes that it amounted to 7 deaths per 100000 live births in 2005, which is a comparable rate to that in other European countries<sup>8</sup>.

### *Health care system*

#### *Access to health care*

The health care system is based on the principle of universalism, meaning that everyone has the right to the care which he or she or needs, without discrimination. Amendments to the Primary Health Care Act (66/1972), the Specialised Medical Care Act (1062/1989) and the Status and Rights of Patients Act (785/1992) came into force on 1 March 2005. According to the

report, they made access to health care smoother and timelier. The reform has also speeded up the modernisation of practices in hospitals.

Access to health care is guaranteed equally to Finnish citizens and to foreign nationals residing and working lawfully in Finland.

In its previous two conclusions (Conclusions XVII-2 and 2007), the Committee asked for information about the situation in law and in practice concerning access to health care for disadvantaged persons. Information has been provided on legislation which seeks to ensure equal access to health care for persons with disabilities inter alia by requiring providers to take into account the specific needs of persons with disabilities.

Further the reduction of health inequalities between population groups is a central goal of Finnish health care policy and one of the key targets of the Government Policy Programme Health 2015. The Programme aims at reducing mortality differences between population groups with different levels of education and profession by a fifth by 2015. The Committee asks to be kept informed of all developments in reaching this target.

In October 2002, the Government allocated hospitals additional funding to help them to reduce waiting times for specialised care. The corresponding measures were introduced in January 2005, when about 41 000 people had been on waiting lists for over six months. This figure decreased steadily until May 2007 when it reached 5 520, before increasing again to 9 700 in December 2007, accounting for 13% of all patients on waiting lists.

In addition, national criteria have been set for around 80% of all non-emergency care to prevent regional disparities. These criteria are used by doctors when they decide on treatment for their patients, while taking account of the patients' individual needs and personal circumstances.

The impact of these criteria and the economic effects of the reform of provisions on waiting times will be assessed over the next two years. The Committee asks to be kept informed of this.

The working group set up in 2002 by the Ministry of Social Affairs and Health has made a number of proposals concerning the development of child health clinic activities to meet the needs of children and their families. It has prepared a guide for the improvement of child health clinics, aimed primarily at the staff and management of clinics and municipal decision-makers. The working group also recommends that the skills of staff should be enhanced so that they can help families more effectively and respond to problem situations as quickly as possible. It also suggests that the role of parents should be enhanced through parent support groups, more data should be gathered and more research should be done. The Committee asks if these proposals have been taken into account and, if so, how.

There are three rates of reimbursement for medicine costs – 42%, 72% or 100% (although patients must contribute € 3 for each medicine reimbursed



at 100%). These rates are set by the Health Insurance Act (1224/2004). For reimbursement, medicines must be reasonably priced and have been classed as reimbursable products by the Pharmaceuticals Pricing Board, which operates in liaison with the Ministry of Social Affairs and Health. Where patients' medicine costs exceed a certain amount in the year (€ 616.72 in 2006), all subsequent reimbursable medicine costs are reimbursed at a rate of 100%, subject to a patient contribution of € 1.50 per medicine.

The health care budget was 7.6 % of GDP in 2006<sup>9</sup>, which was a similar rate to that of other European countries.

#### *Health care professionals and facilities*

There were 6.96 hospital beds per 1000 inhabitants in 2006<sup>10</sup> (the average number of hospital beds in Europe (EU 27) was 5.90 per 1000 inhabitants in 2005<sup>11</sup>).

With regards to psychiatric hospitals, there were 0.92 beds per 1000 inhabitants in 2006<sup>12</sup> (the average number of hospital beds for psychiatric care in Europe (EU 27) was 0.60 per 1000 inhabitants in 2005<sup>13</sup>).

With regard to doctors, there were 17,357 doctors in 2006, equating to 33 doctors per 10,000 inhabitants<sup>14</sup>, which represents a globally equivalent density to those of other European countries. According to the report, the number of doctors had increased since 2000, although the deficit had not yet been made up entirely. It was anticipated that there would be more doctors from 2008 onwards because the number of university places for medical training was increased in 2001 and 2002.

In 2006, there were also 4,490 dentists<sup>15</sup> (equating to 9 per 10,000 inhabitants), 46,930 nurses and midwives<sup>16</sup> (equating to 89 per 10,000 inhabitants), which represents an equivalent density to that in other European countries. The Committee asks for the next report to state how many pharmacists there are, in total and per 10 000 inhabitants.

The report acknowledges that there is a shortage of doctors in the eastern part of the country and of dentists in the central eastern area and in areas with no private dentists. The Committee asks what it is planned to do to rectify these geographical disparities. It also asks for information on the geographical distribution of other health professionals.

#### *Conclusion*

The Committee concludes that the situation in Finland is in conformity with Article 11§1 of the Revised Charter .

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<sup>1</sup> Eurostat

<sup>2</sup> *Idem*

<sup>3</sup> *Idem*

- <sup>4</sup> *Idem*  
<sup>5</sup> *Idem*  
<sup>6</sup> *Idem*  
<sup>7</sup> *Idem*  
<sup>8</sup> *WHO*  
<sup>9</sup> *Idem*  
<sup>10</sup> *Eurostat*  
<sup>11</sup> *Idem*  
<sup>12</sup> *Idem*  
<sup>13</sup> *Idem*  
<sup>14</sup> *WHO*  
<sup>15</sup> *Idem*  
<sup>16</sup> *Idem*

## **Article 11 - The right to protection of health**

### *Paragraph 2 - Advisory and educational facilities*

The Committee takes note of the information contained in the report submitted by Finland.

#### *Eductaion in health*

##### *Public information and awareness-raising*

National rules must provide for informing the public, education and participation. States must demonstrate through concrete measures that they implement a public health education policy in favour of the general population and population groups affected by specific problems (Marangopoulos Foundation for Human Rights (MFHR) v. Greece, complaint n°30/2005, decision on the merits of 6 December 2006, § 216 and 219).

Informing the public, particularly through awareness-raising campaigns, must be a public health priority (Conclusions 2007, Albania). Measures should be taken to prevent activities that are damaging to health (smoking, alcohol, drugs) and to promote the development of a sense of individual responsibility (healthy eating, sex education, environment) (Conclusions 2005, Moldova). Activities may be more or less developed in accordance with the nature of the public health problems in the countries (Conclusions XV-2, Belgium) .

The Committee refers to previous reports for a description of the situation with regard to public information and awareness-raising, which it found to be in conformity with the Charter. The Committee asks for detailed, up-to-date information in the next report on any public information and awareness-raising measures taken. It asks in particular for information on the national legislation on public health information, education and participation, and if there are also specific public information campaigns about subjects such as alcohol and illegal drugs, smoking, eating, sexuality and the environment.

### *Health education in schools*

Health education must continue throughout school life and form part of school curricula. The Committee considers that, after the family, school is the most appropriate setting for health education because the general purpose of education is to impart the knowledge and skills necessary for life. It refers in particular to Committee of Ministers Recommendation No R(88)7 on school health education and the role and training of teachers. Health education in school shall cover the following subjects: prevention of smoking and alcohol abuse, sexual and reproductive education, in particular with regard to prevention of sexually transmitted diseases and Aids, road safety and promotion of healthy eating habits (Conclusions XV-2, Belgium).

The Committee refers to previous reports for a description of the situation with regard to health education in schools, which it found to be in conformity with the Charter. The Committee asks for the next report to describe the situation again, providing detailed, up-to-date information on health education programmes in schools, specifying in particular whether these cover smoking and alcohol prevention, reproductive health and sex education, including instruction on prevention of sexually transmitted diseases and AIDS, road safety and promotion of healthy eating.

### *Counselling and screening*

#### *Population at large*

Preventive screening must play an effective role in improving the population's state of health. Consequently, the Committee believes that, in fields where it has proved to be an effective means of prevention, screening must be used to the full (Conclusions XV-2, Belgium). In particular, there should be screening, preferably systematic, for all the diseases that constitute the principal causes of death (Conclusions 2005, Moldova).

The Committee refers to previous reports for a description of the situation with regard to consultation and screening for illnesses, which it found to be in conformity with the Charter. The Committee asks for the next report to describe the situation again, providing detailed, up-to-date information on the consultations and screening carried out, and how regular and accessible they are.

#### *Pregnant women, children and adolescents*

There must be free and regular consultation and screening for pregnant women and children throughout the country (Conclusions 2005, Moldova).

The Committee asks for the next report to describe the consultations and screening available for pregnant women and to state whether these are free.

Free medical checks must be carried out throughout the period of schooling. In assessing compliance, the Committee takes account of the frequency of school medical examinations, their objectives, the proportion of pupils concerned and the level of staffing (Conclusions XV-2, France).

The Primary Health Care Act (66/1972) specifies that municipalities are responsible for health care at school. There is a recommendation which defines this care and the measures required. It is recommended, in particular, that three comprehensive health checkups should be carried out during each pupil's basic education according to a procedure set out in detail in the recommendation. It is also recommended that there should be a meeting between school health staff and pupils at least once a year. The Committee asks what is being done to ensure that the recommendation is followed in practice as the report acknowledges that this is not always the case.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 11§2 of the Revised Charter.

## **Article 11 - The right to protection of health**

### *Paragraph 3 - Prevention of diseases*

The Committee takes note of the information contained in the report submitted by Finland.

### *Policies on the prevention of avoidable risks - Reduction of environmental risks*

Air water soil and noise pollution - The Committee asks to for updated information to be provided in the next report on measures taken to reduce and monitor air, soil, water and noise pollution.

Ionizing radiation – The Committee previously found that the situation was in conformity with the Revised Charter but requested information on inspection and monitoring of radioactivity. Surveillance of radioactivity in the environment is carried out by the Radiation and Nuclear Safety Authority (STUK) as required by national and EC legislation. There is continuous monitoring of levels of radioactivity in the air, water and soil as well as in food stuff and the human body. The results of the monitoring are published annually. Nuclear power plant licensees are responsible for environmental surveillance in the vicinity of nuclear power plants.

Asbestos - The Committee previously found that the situation was in conformity with the Revised Charter in this respect.

### *Food safety*

The Committee previously found that the situation was in conformity with the Revised Charter in this respect.

*Measures to combat smoking, alcoholism and drug addiction*

Smoking - Since June 2007 smoking has been prohibited in bars and restaurants. The sale of cigarettes to persons under 18 years of age has been prohibited. A government Bill under consideration proposes that the selling of tobacco products should be subject to a special licence. Surveys show that there are positive trends in the smoking habits among people; there is a decline in the number of young persons taking up smoking. The goal of the Health 2015 programme is to reduce smoking among young persons to 15%. The Committee asks to be kept informed of all trends in smoking.

Alcohol - In 2006 the annual consumption of alcohol per capita amounted to 10.3 litres. According to the report the trend is upward despite the measures taken by the Government. The Committee asks the next report to continue to provide information on the trends in alcohol consumption and also to provide information on the legislation on the sale and supply of alcohol.

Drug Addiction - The Committee takes note of the information provided in the report on this topic.

*Prophylactic measures-Epidemiological monitoring*

The Committee previously found that the situation was in conformity with the Revised Charter in this respect.

*Accidents*

The Committee previously asked for information on accidents; measures taken to prevent all kinds of accidents as well as statistics on the most frequent accidents and trends in accident rate. It repeats its request for information on this point.

*Immunisation*

The Committee previously found that the situation was in conformity with the Revised Charter in this respect.

*Conclusion*

The Committee concludes that the situation in Finland is in conformity with Article 11§3 of the Revised Charter.

**Article 12 - The right to social security***Paragraph 1 - Existence of a social security system*

The Committee takes note of the information contained in the report submitted by Finland.

The Committee notes that during the reference period a new Health Insurance Act entered into force, legislation on employee pensions was reformed and the labour market support scheme for persons unemployed for more than 500 days was modified. Changes affecting the level of the benefits and consequently their adequacy will be assessed below. For other changes, the Committee refers to its assessment under Article 12§3.

*Risks covered, financing of benefits and personal coverage*

The Committee refers to its previous conclusions (Conclusion 2006 and 2004) for a description of the Finnish social security system and notes that it continues to cover the branches of social security corresponding to all traditional risks: medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors. The system also continues to rest on collective funding: it is funded by contributions (employers, employees) and by the State budget.

To assess whether a significant proportion of the total and/or active population in Finland is guaranteed an effective right to social security with respect to the benefits provided under each branch, the Committee asked for figures in percentage indicating the personal coverage of each branch of social security. The report fails to provide such figures. Since the personal coverage of the social security system was previously not questioned (Conclusions 2006), the Committee reserves its position this time. It however requires the next report to contain the relevant up-to-date information.

*Adequacy of benefits*

The Committee refers to its previous conclusion (Conclusions 2006) for a description of the various social security schemes.

When the Committee previously assessed the situation under Article 12§1 (Conclusions 2006), it held manifestly inadequate the minimum sickness and maternity allowances as well as the minimum national pension for single persons.

The Committee notes from the information submitted by the Government that in 2005 the amount of minimum sickness and maternity allowances was increased to € 15.20 per day and that the gross amount of the benefit per month is thus € 380 (as the benefit is paid 6 days per week and the computational number of payment days per month is 25). The Committee observes that this amount

continues to be below the poverty threshold even when defined as 40% of median equivalised income as calculated on the basis of the Eurostat at-risk-of-poverty threshold, which was € 623,20 in Finland in 2007. The minimum amount therefore continues to be manifestly inadequate.

As to the national pension, the Committee notes from the information submitted by the Government that this is not intended to cover the entire subsistence of a pensioner and that to this end additional forms of support are available (e.g. an additional earnings-related pension of € 47,29 per month, pensioners' housing allowance, pensioners' care allowance, free of charge access to certain health care services and ultimately also social assistance). It also notes from the report that during the reference period index adjustments were made to increase its level. However, the Committee also observes from another source<sup>17</sup> that in 2007, the full amount of a national pension for a low income pensioner ranged between € 495,35 per month and € 558,46 per month depending on marital status. The Committee observes that even in the event of no reduction based on length of residence, the full amount of a national pension for a single low income pensioner continues to be below the poverty threshold even when defined as 40% of median equivalised income as calculated on the basis of the Eurostat at-risk-of-poverty threshold (€ 623,20). This minimum level therefore continues to be manifestly inadequate.

As to the amount of the basic unemployment benefit for single persons, in its previous conclusion the Committee observed that it stood between 40 % and 50 % of the median equivalised income. Thus, unless combined with other supplements, it might also be held inadequate. It therefore asked the Government to clarify the situation. In reply, the report indicates that if a single unemployed person is temporarily without sufficient means to meet the necessary cost of living, s/he may receive social assistance in accordance with Act 1412/1997. In the light of its conclusion under Article 13§1, the Committee considers that the amount of the basic unemployment benefit for single persons is adequate

In its previous conclusion (Conclusions 2006), the Committee recalled that the adequacy of unemployment benefits is established *inter alia* also by considering whether there is a reasonable initial period during which an unemployed person may refuse a job offer or a training not matching his/her previous skills without losing his/her unemployment benefits.

In this regard, the report specifies that:

- There is no such initial period for young people in receipt of labour market subsidy;
- When a person has been unemployed for more than 500 days, the labour market authorities are required to offer intensified activating measures (e.g. job offers, education, supported jobs, etc). If the person refuses the offer s/he will not receive labour market support.

The Committee requests the Government to specify how often labour market support measures are ended and whether the decision to do so may be appealed. In the affirmative, the report should contain information on any relevant case law. Pending receipt of the above clarifications, the Committee reserves its position as to the actual guarantee of the unemployment risk for which every worker has contributed during his working activity.

### *Conclusion*

The Committee concludes that the situation in Finland is not in conformity with Article 12§1 of the Revised Charter on the ground that the minimum sickness and maternity allowances and the minimum national pension for single persons are manifestly inadequate.

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<sup>1</sup>*Mutual Information System on Social Protection (MISSOC) Comparative table VI for 2007 on Old Age at [http://ec.europa.eu/employment\\_social/missoc/2007/tables\\_part\\_8\\_en.pdf](http://ec.europa.eu/employment_social/missoc/2007/tables_part_8_en.pdf)*

### **Article 12 - The right to social security**

*Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that required for ratification of the International Labour Convention No. 102*

The Committee takes note of the information contained in the report submitted by Finland.

The Committee notes that Finland has not ratified the European Code of Social Security. Therefore the Committee can not take in consideration other sources such as the resolutions of the Committee of Ministers on the compliance of the states bound by the European Code of Social Security and has to make its own assessment based on the information received in the report.

The Committee recalls that Article 12§2 obliges states to establish and maintain a social security system which is at least equal to that required for ratification of the European Code of Social Security. The European Code of Social Security requires acceptance of a higher number of parts than ILO Convention No. 102 relating to social security; six of the nine contingencies must be accepted although certain branches count for more than one part (old-age counting per three for example).

In its previous conclusion the Committee noted that Finnish social security system covered all the nine branches and that all the residents are covered by the social security schemes which govern basic pensions, sickness and maternity benefits, and unemployment benefits. It also asked information on the assessment of the Government of the compliance of the social security system with the requirements of the European Code of Social Security. The report explains that Finland would submit a report on the European Code of Social Security during 2008, but such a report has not been received.



The Committee requests that the next report provides the necessary information, which will allow that the situation in Finland to be assessed.

### *Conclusion*

Pending receipt of the information requested, the Committee defers its conclusion.

## **Article 12 - The right to social security**

### *Paragraph 3 - Development of the social security system*

The Committee takes note of the information contained in the report submitted by Finland.

The Committee notes that during the reference period changes were introduced with regard to family benefits. Since Finland has ratified Article 16 of the Revised Charter, the Committee will assess the scope and impact of such changes when it will next examine compliance with this article.

The report highlights that social security benefits are generally annually increased and that during the reference period:

- All the minimum levels of daily allowances were increased;
- Since 2007, it is possible to choose the time of paternity leave more flexibly;
- Employers are better compensated for employee's annual leave with pay for maternity.
- The rates of child disability allowance and special disability allowance were increased;
- National pensions were raised by an index adjustment.

### *Health insurance*

The Committee notes from the report that the financing of the health insurance scheme was reformed in 2006 with the aim of guaranteeing its sustainability and identifying financial responsibilities of each party clearly. The funding of the health insurance scheme is divided between the earnings security insurance and the medical care insurance. The Committee asks the next report to contain information on the results of such reform, in particular on the impact of this reform on access to health care and adequacy of sickness, employment injury, disability and maternity benefits.

### *Sickness allowance*

The report informs that a new part-time sickness allowance was introduced in 2007. Under specific conditions, if employer and employee agree, the allowance

may be granted to facilitate the gradual return to work of an employed person who was on sick leave for an uninterrupted period of at least 60 days. The part-time sickness benefit is received in addition to earnings from employment. It is paid for 12 to 72 working days. The Committee asks the next report to contain more details on the amount of this allowance and the number of its recipients.

#### *Rehabilitation benefit*

The Committee notes from another source<sup>18</sup> that since 1 October 2005 (Law 127 of 9 March 2005 and Law 566 of 15 July 2005), a number of changes have been introduced that affect the award and delivery of rehabilitation benefit. Such changes include, *inter alia*:

- Eligibility conditions have been redefined: an individual who is expected to face the risk of unemployment within the next 5 years as a result of a declining level of working ability/earning capacity may receive the benefit.
- Public health care (rehabilitation) providers must draw up individual rehabilitation plans for rehabilitation clients. Rehabilitation clients and providers are eligible for a reimbursement of the necessary and reasonable cost of rehabilitation, as defined by the Ministry of Social Affairs and Health.
- Rehabilitation allowances are also payable to young insured persons aged 16 to 20 who have an illness, injury or impairment which substantially decreases their working ability and functional capacity or significantly limits their choice of occupation.
- Rehabilitation allowances are also payable to long-term unemployed persons with a history of substance abuse. The allowance is paid to improve their economic security while receiving help to overcome their substance abuse problem and to facilitate a move back to employment.

The Committee asks the next report to contain information on the results obtained by such reform.

#### *Unemployment benefit*

The report indicates that the labour market support scheme for persons unemployed for more than 500 days was reformed. Such persons may not refuse job or training offers made by the labour market authorities without losing the labour market support. The Committee refers to its questions under Article 12§1 in this respect.

#### *Pensions*

A new Employees Pensions Act (395/2006) entered into force in January 2007. It merges into a single act three separate acts on the private sector pensions.

According to the report, the new act does not significantly impact on the level of pensions. It clarifies the private-sector pension legislation by bringing all provisions related to it in a single text.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 12§3 of the Revised Charter.

<sup>7</sup>*International Social Security Association (ISSA) Country Profile on FINLAND available at: <http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Europe/Finland>*

## **Article 12 - The right to social security**

### *Paragraph 4 - Social security of persons moving between states*

The Committee takes note of the information contained in the report submitted by Finland.

### *Equality of treatment and retention of accrued benefits (Article 12 4a)*

#### *Right to equal treatment*

Relations with other member states of the enlarged European Union in connection with social security are governed by Council regulations (EEC) No 1408/71 and (EEC) No 574/72. Council Regulation (EC) No. 859/2003 allows Regulation No. 1408/71 to be applied to nationals of third countries and members of their families provided they are legally resident in the territory of a member state and are in a situation which is not confined in all respects within a single member state (Article 1). These regulations also apply to nationals of European Economic Area (EEA) member states, that is Norway, Iceland and Liechtenstein. EU member states must at least guarantee nationals of other states party that are not EU members equal treatment with respect to social security rights if they are legally resident in their territory (Conclusions 2006).

Finland has not negotiated any bilateral agreements with States Parties that are not EU or EEA members. However, it is a party to the Nordic Social Security Convention, which also covers Denmark, Norway, Iceland and Sweden and establishes the principle that all nationals of third parties residing and moving around within these states shall be treated equally. The Committee asks again for the next report to provide information about the extension in practice of the equal treatment principle to third country nationals.

The Committee has previously ruled that under Article 12§4 any child resident in a country is entitled to family benefits on an equal footing with nationals of the country concerned. Whoever the beneficiary under the social security system, i.e. whether it is the employee or the child, States Parties are required to ensure through unilateral measures that family

benefits are actually paid to all children residing in their territory. In other words, requiring the child concerned to reside in the state in question is in conformity with Article 12§4 and its Appendix. However, since not all countries apply such a system, states applying the “child residence requirement” are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to negotiate within a reasonable time bilateral or multilateral agreements with those states which apply a different entitlement principle. The Committee asks whether such agreements exist with Albania, Armenia, Georgia and Turkey, and if not, whether they are planned, and within what timescale. In the absence of any such information in the report, it asks for information on any agreements that are being planned with these countries and the time span for their negotiation. It also asks whether the conclusion of such agreements is foreseen with States which have ratified the Charter outside the reference period, i.e. Serbia and the Russian Federation.

In its previous conclusion, the Committee noted that there was a residence requirement for most social security benefits, particularly parental allowance, national pensions and unemployment benefits. Finnish citizens and nationals of other EU member states and countries with which Finland has negotiated a social security agreement are entitled to a national pension if they have resided in Finland after the age of 16 for at least three years without interruption. Formerly, nationals of non-EU or EEA members states that were not bound by a bilateral agreement were required to have lived in Finland for at least five years without interruption to be entitled to the aforementioned benefits. According to the report this qualifying period has been reduced to three years. As a result, nationals of all States Parties are now guaranteed equal treatment. The Committee points out that, where non-contributory benefits are concerned, the section of the Appendix relating to Article 12§4 allows a residence requirement to be imposed on foreign nationals, but it reserves the right to assess the proportionality of the length of residence to the objective pursued. All the aforementioned benefits are non-contributory. However, the Committee considered previously that the length of residence requirement was not excessive.

The Committee noted previously that the national pension and other pensions were adjusted according to length of residence in Finland. A full pension requires 40 years’ residence in Finland.

#### *Right to retain accrued benefits*

According to the report, Finnish legislation guarantees that work-related benefits can be exported irrespective of beneficiaries’ nationalities. The Committee asks for information in the next report on how benefits are accrued according to type of benefit.

The Committee found previously that the situation in Finland was not in conformity with the Revised Charter because, for nationals of non-EU or -

EEA countries not bound by an agreement, benefits accrued under the general pensions scheme are retained for only one year. If the beneficiary has lived in Finland for at least ten years and moved to another country for family reasons, his or her pension may continue for a time. The Committee points out that under Article 12§4, invalidity benefit, old age benefit, survivor's benefit and occupational accident or disease benefit acquired under the legislation of one state according to the eligibility criteria laid down under national legislation are to be maintained whatever the movements of the beneficiary. In the absence of any new information in the report, it confirms its finding of non-conformity in this regard.

*Right to maintenance of accruing rights (Article 12§4b)*

Nationals of States Parties covered by Community regulations benefit from the aggregation of insurance and employment periods. According to the report there is no minimum insurance period for entitlement to pensions and work accident benefits. The Finnish authorities consider that this makes the principle that periods must be aggregated irrelevant.

The Committee points out that persons moving between States Parties without having completed the period of employment or insurance necessary under that state's legislation to qualify for certain benefits and for determining the amount thereof should not be prejudicial. Implementation of the principle presupposes that, if necessary, the technique of accumulating the periods of employment or insurance spent abroad and, in respect of long-term benefits, the pro rata technique, be used for the opening, calculation and payment of benefits. States have a choice of means: multilateral convention, bilateral agreement or any other method, such as unilateral, legislative or administrative measures.

In its two previous conclusions (Conclusions XVII-1 and 2006) the Committee found that the aggregation of insurance or employment periods was not guaranteed in respect of nationals of other States Parties. As there has been no change in the situation, the Committee confirms its finding of non-conformity in this regard.

*Conclusion*

The Committee concludes that the situation in Finland is not in conformity with Article 12§4 of the Revised Charter on the following grounds:

- the retention of accrued benefits for persons moving to a State Party which is not covered by Community regulations or not bound by an agreement with Finland is not guaranteed;
- nationals of States Parties not covered by Community regulations or bound by an agreement with Finland are not entitled to accumulate insurance or employment periods completed in other countries.

## **Article 13 - The right to social and medical assistance**

### *Paragraph 1 - Adequate assistance for every person in need*

The Committee takes note of the information contained in the report submitted by Finland.

### *Types of benefits and eligibility criteria*

In its previous conclusion (Conclusions XVIII-1) the Committee noted that up to 20% of social assistance benefit can be withheld from recipients who, without justification, refuse work or an employment policy measure that would secure a living for a reasonably long period. In cases of repeated refusal the reduction may be increased to 40%. However, the reduction must not constitute a threat to health or human dignity and may not last more than two months. The Committee asked what conditions any offer of employment must meet and what reasons for refusing an offer were acceptable.

In this connection, it notes that the report reiterates that the size of the basic social assistance benefit can be reduced by up to 20%, if the recipient's need for social assistance is caused by his or her having refused work specifically and demonstrably offered or an employment policy measure that would secure a living for a reasonable long period, or by his or her having acted, through negligence, in such a way that work or an employment policy measure could not be offered. If the basic benefit is reduced, a plan has to be drawn up with the recipient in order to promote the independent coping of the person concerned. An assessment has to be carried out in order to ascertain that the reduction is reasonable, i.e. that such person's human dignity is still respected. A social worker assesses the recipient's life situation as well as different opportunities to support him or her in seeking education or treatment.

The Committee notes that the reduction in question only concerns the basic benefit and not the supplements (see below). Therefore it does not necessarily amount to the deprivation of means of subsistence for the person concerned. Therefore such situation does not amount to a breach of the Charter.

### *Level of assistance*

To assess the situation during the reference period, the Committee takes account of the following information:

- basic benefit: according to MISSOC monthly amount of the basic social assistance benefit stood at € 389 and € 372 in municipalities I and II respectively.
- supplementary benefits: the Committee notes from the report that there are two types of supplements paid to a person without resources: (i) expenses such as rent or service charges, household electricity and home insurance as well as health care costs; and (ii) expenses covered by the supplementary benefit, such as housing expenses other than those mentioned under (i) and expenses arising

from special needs or circumstances and regarded necessary to ensure that a person can cope independently.

- poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value: estimated at € 779 in 2007.

The Committee notes from the report that the total amount of assistance (basic benefit and supplements) varies by household depending on the expenditure of each household. However, it observes that the basic benefit on average represents around 40% of the total social assistance. Housing expenditure makes up another 40% and the rest accounts for everything else. Based on these estimates, the Committee considers that in 2007 on average, a person without resources in municipality II received a total of € 930. The Committee holds that the situation is in conformity with the Charter on the basis that the level of social assistance is compatible with the poverty threshold.

#### *Right of appeal and legal aid*

In reply to the Committee's question the report states that the right of appeal applies to all decisions concerning the level or contents of social assistance, including decisions on reducing the basic benefit. The Committee reiterates its question whether free legal aid is available to enable applicants to fully exercise their right of appeal.

#### *Personal scope*

In its previous conclusion the Committee noted that social assistance could be granted to any person without resources, resident in Finland and asked whether granting of assistance was subject to a prior length of stay condition and if so, how long it was. It notes from the report that according to Section 13 of the Social Welfare Act (710/1982) municipalities are obliged to provide social assistance to their residents. The Committee also notes from another source<sup>19</sup> that there are two types of residence permits -fixed term and permanent. The latter may be granted after four years of fixed term residence. The Committee asks whether non-EU nationals, who are holders of fixed term residence permits are entitled to social assistance in case of need. It holds that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with Article 13§1. In the meantime the Committee defers its position on this point.

#### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 13§1 of the Revised Charter.

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<sup>19</sup>*Finnish Immigration Service*

**Article 13 - The right to social and medical assistance**

*Paragraph 2 - Non-discrimination in the exercise of social and political rights*

Finland has submitted no information on Article 13§2 in its report.

The Committee notes that the situation in Finland has been established to be in conformity with Article 13§2 in the last 4 evaluation cycles. The Committee asks that this matter is duly addressed in the next report of Finland which will allow that the situation in Finland be assessed.

*Conclusion*

Pending receipt of information requested, the Committee defers its conclusion.

**Article 13 - The right to social and medical assistance**

*Paragraph 3 - Prevention, abolition or alleviation of need*

The Committee takes note of the information contained in the report submitted by Finland.

The Committee refers to its previous conclusions of conformity on this provision and also to its conclusion under Article 14§1. However it requests that each national report on this provision provide updated information.

*Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 13§3 of the Revised Charter.

**Article 13 - The right to social and medical assistance**

*Paragraph 4 - Specific emergency assistance for non-residents*

The Committee takes note of the information contained in the report submitted by Finland.

In its previous conclusion (Conclusions XVIII-1) the Committee asked for confirmation that all foreigners legally present in Finland were entitled to emergency social and medical assistance in case of need. In reply, the Committee notes from the report that the municipality in which a foreigner is temporarily resident will provide immediate assistance in case of urgency, such as food, shelter, other expenses or assistance to return home. Such emergency assistance, according to the report, may be granted only as a last resort, if a tourist's need for urgent assistance cannot be met in any other way.

In reply to its question whether unlawfully present foreign nationals, including those whose applications for refugee or stateless person status have been rejected, are eligible for emergency medical and emergency social assistance (shelter, food, clothing) in case of need, the Committee notes from the supplementary information provided by the Finnish Government that Section



19(1) of the Constitution of Finland lays down that all those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care. As regards emergency medical care, under Section 14 (1) (10) of the Primary Health Care Act the municipal authorities are responsible for organising urgent outpatient care, irrespective of patient's place of residence. According to Section 30 of the Specialised Medical Care Act, hospitals and other care units of the municipal board for a hospital district are used primarily for providing medical care for residents of the member municipalities of the joint municipal board. However, according to the report, despite this provision, all persons in need of urgent medical care shall always be provided medical care.

As regards emergency social assistance, according to Section 13 of the Social Welfare Act (710/1982) municipal authorities must provide social assistance for persons in immediate need who are resident or staying in the municipality. If a foreign national stays in Finland without a residence permit, it can be required, as a rule, that such a person will travel as soon as possible to his/her country of residence, in which case possible social assistance is limited to covering the necessary travel and other expenses. Social assistance can be granted only if the foreign citizen is not able to help him/herself by some other means, such as transfer of money from the country of origin, representation of the own country etc. The Committee asks for more detail on the nature and extent of the emergency social assistance which can be provided to foreign nationals in immediate and urgent need before the process of repatriation is completed.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 13§4 of the Revised Charter.

**Article 14 - The right to benefit from social welfare services***Paragraph 1 - Provision or promotion of social welfare services*

The Committee takes note of the information contained in the report submitted by Finland.

*Organisation of the social services*

The report describes changes to the social services legislation, particularly with the entry into force, in February 2007, of Act 169/2007 on the restructuring of local government and services, which reforms the system of government grants and revises the division of responsibilities between the national and local levels. The act also provides for a reform of the local administrative arrangements so that municipalities or groups of municipalities cover a population of at least 20 000, while joint municipal boards are to be responsible for specialised service for mentally disabled persons.

The amendments to the Social Welfare Act that came into force on 1 March 2006 require municipalities to respond rapidly to requests for service from or for elderly and disabled persons.

*Effective and equal access*

Users have a subjective right to certain social services, such as child day care and services for the disabled.

Apart from place of residence, access to social services is governed by the criterion of individual need. When a charge is made for services under Act 734/1992, the amount payable depends on the users' financial circumstances. The report specifies services for which a charge may be made. The 1992 Act also lays down maximum charges. Exemptions from payment may be granted to persons with insufficient incomes.

The decision to grant services is generally taken by local authority officials. In the event of disagreement, users can lodge complaints to the unit or the local authority concerned within 14 days of notification of the decision. Under the Administrative Procedure Act no. 586/1996, they can appeal against the latter's decision to an administrative court within 30 days of notification of this decision. Only severely disabled persons are entitled to take appeals to the supreme administrative court. Where users disagree with social services agencies about the quality of the service provided, the Act on the Status and Rights of Social Welfare Clients (812/2000) offers them various other internal remedies, and they can also take the matter to the relevant state provincial office or the ombudsman.

### *Quality of services*

Act 603/1996 requires private service providers to notify the local authorities of the services they are providing, and they require prior authorisation to provide 24-hour services. In the latter case, non-public providers must present an annual report on their activities to the state provincial office responsible for supervising these activities. Provincial offices and local authorities, which are jointly responsible for supervising non-public providers, may also carry out inspection visits. The Committee asks how the quality of care provided by public agencies is monitored.

The Committee also asks for information on the staffing of social services.

Act (272/2005) and Decree (608/2005) on qualification requirements for social welfare professionals, which came into force on 1 August 2005, lay down basic staff qualifications, according to the post filled, in order to maintain a proper standard of service. This applies to public agencies and to private ones governed by the Supervision of Private Social Services Act (603/1996). The report does not specify what level of qualification is required so the Committee asks for this information in the next report.

Government subsidies to local authorities rose during the reference period from € 3.7 billion to 4.3 billion.

### *Conclusion*

The Committee concludes that the situation in Finland is in conformity with Article 14§1 of the Revised Charter.

### **Article 14 - The right to benefit from social welfare services**

#### *Paragraph 2 - Public participation in the establishment and maintenance of social welfare services*

The Committee takes note of the information contained in the report submitted by Finland.

The report refers to the growing involvement of non-public agencies in the provision of social services, particularly those connected with child care and home help. According to the report, closer co-ordination of the private and public sectors is one of the government's priorities. An advisory board, made up of NGOs and enterprises providing private social and health services, labour market organisations, service users and authorities supervising private service provision, was established in 2007 by Decree 1181.

The Committee again asks whether non-public service providers benefit from equal and effective access with regard to the provision of social services.

Under the regulations on client fees for social services the same fees apply to services from private providers if they are provided under a contract between the service provider and the relevant municipality. On the other hand, if a client acquires services directly from a private provider, the service fee is based on an agreement between the client and the provider.

As to quality control, the Committee refers to its conclusion under Article 14§1.

Following an amendment of 2006 to Act 603/1996, the national authority for medico-legal affairs and the state provincial offices now maintain the registers of private providers jointly, to facilitate the management of authorisations and notifications, the supervision of operations and the compilation of statistics. In response to audit recommendations, specific attention now has to be paid to the advance supervision of the activities of non-public service providers, particularly long-term institutional care and sheltered housing.

The Committee notes from another source<sup>20</sup> that clients in Finland are involved in the running of certain social services.

### *Conclusion*

The Committee concludes that the situation in Finland is in conformity with Article 14§2 of the Revised Charter.

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<sup>20</sup> *Report on user involvement in personal social services, Council of Europe, 2007, p. 24*

### **Article 23 - The right of elderly persons to social protection**

The Committee takes note of the information contained in the report submitted by Finland.

#### *Legislative framework*

The Committee recalls that the focus of Article 4 of the Additional Protocol is on social protection of elderly persons outside the employment field. Questions of age discrimination in employment are primarily examined by the Committee under Articles 1§2 (non-discrimination in employment) and 24 (right to protection in cases of termination of employment).

As regards the protection of elderly persons from discrimination outside employment, the Committee recalls that Article 23 of the Revised Charter requires States Parties to combat age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services. The European Older People's Platform and other sources point to the existence of pervasive age discrimination in many areas of society throughout Europe (health care, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities) which leads the Committee to consider that an adequate legal framework is a fundamental measure to combat age discrimination in these areas.

The Committee notes from both the report and another source<sup>21</sup> that the main provisions pertaining to discrimination have been laid down in the Constitution, the Non-Discrimination Act and the Penal Code. The primary thrust of the Constitutional prohibition of discrimination is to ensure equal treatment in the exercise of public powers. The Constitution nevertheless has a bearing on legal relationships between private parties as well and may for instance provide grounds for amending or nullifying discriminatory provisions of a contract. The Non-Discrimination Act (21/2004) is the main instrument adopted in order to transpose into national law the EU directives on equal treatment, but goes beyond them by extending its protection in the field of education/training to all grounds of discrimination. The Penal Code is applicable to instances of discrimination that have taken place in the fields of, inter alia, employment, provision of services and the discharge of duties in a public office.

On the basis of the above information, the Committee considers that the interplay of the main anti-discrimination provisions prohibit age discrimination on a sufficiently wide variety of grounds outside employment, namely education and the provision of services. It nevertheless recalls that the prohibition of discrimination based on age should be progressively expanded to also include the areas of social security, health care and goods, and therefore asks whether the authorities plan to develop legislation in these areas.

A new National Framework for High Quality Services for Older People was adopted in February 2008 (outside the reference period). The framework takes the form of a recommendation that defines ethical principles which should guide services for older people.

According to the report, old-age expenditure in 2005 accounted for 32.6% of the total social expenditure. The Committee reiterates its position that such a proportion is adequate for the purposes of complying with Article 23.

Concerning assisted decision making for elderly persons, the Committee reiterates its question whether procedures exist in this area and if there are safeguards to prevent the arbitrary deprivation of autonomous decision-making by elderly persons.

#### *Adequate resources*

The Committee recalls there are two complementary pension schemes in Finland: earnings-related pensions linked to past employment and national pensions linked to residence in Finland.

The Committee notes from MISSOC<sup>22</sup> that the statutory earnings-related pension (Työeläke) accrues on the basis of the annual earnings of employees if monthly earnings exceed € 47.08. There are no ceiling for earnings. For self-employed the annual insurable income shall be at least € 6,186.65 and for farmers € 3,093.33. As regards unpaid periods (e.g. periods of earnings-related maternity-, paternity- and parent's allowance, days with earnings-related unemployment allowance, job alternation leave, days with sickness allowance, compensations for loss of income, other periods with earnings-based daily allowance) the pension accrues on the earnings that are the basis of the benefits. For minimum benefits as well as for studies and child home care a fixed monthly amount is used as earnings base (€ 575.97 in 2007).

The national pension (Kansaneläke) guarantees de facto a minimum pension to those with 80% residence in Finland of the time between the age of 16 and 65 and with a small pension or with no other pension. The full amount is between € 495.35 and € 558.46 per month according to marital status. If years of residence are less than 80% of the time between the age of 16 and 65 the pension is proportional to the length of residence. The statutory earnings-related pension (Työeläke) and other Finnish or foreign pensions received reduce the national pension. Statutory earnings-related pensions earned after the age of 63 do not reduce the national pension.

The poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value, was estimated at €779 per month in Finland in 2007. The Committee notes that the amount of the full national pension for a single elderly person in Finland stands below 40% of the median equivalised income. Therefore, irrespective of whether it can be supplemented with other old age benefits, the Committee considers that

its low level raises an issue of non-conformity with Article 23 of the Revised Charter.

### *Prevention of elder abuse*

The Committee recalls that elder abuse is defined in the Toronto Declaration on the Global Prevention of Elder Abuse (2002) as 'a single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person'. It can take various forms: physical, psychological or emotional, sexual, financial or simply reflect intentional or unintentional neglect. The World Health Organization (WHO) and the International Network of the Prevention of Elder abuse (INPEA) have recognised the abuse of older people as a significant global problem. Hundred thousands of older people in Europe encounter a form of elder abuse each year. They are pressed to change their will, their bank account is plundered, they are pinched or beaten, called names, threatened and insulted and sometimes they are raped or sexually abused otherwise.

The Committee wishes to know what the Government is doing to evaluate the extent of the problem, to raise awareness on the need to eradicate elder abuse and neglect, and if any legislative or other measures have been taken or are envisaged in this area.

### *Services and facilities*

The Committee refers to previous conclusions for an overview of the most important social service for older people (see Conclusions XVII-2, Article 4 of the Additional Protocol). It notes from the report that in 2005 private social service providers (who sell their services to municipalities) accounted for 26% of the total service expenditure.

The Committee notes from MISSOC and the report that there is a Disability Allowance for Pension Recipients (Eläkettä saavan hoitotuki). The basic rate is € 54.80 per month, the middle rate € 136.43 and the highest € 288.49 (adjusted in accordance with the length of residence in Finland). The allowance is paid to enable elderly persons to live at home and compensate costs arising from home care or other special expenses caused by illness or injury.

The Committee notes that provisions on needs assessment were included in the Social Welfare Act in March 2006. Municipal authorities must organise and deliver social services to elderly persons over 80 years on the basis of individual service needs assessments (preventive home visits). A new bill which aims at extending the right of service needs assessment to persons over 75 years is currently before Parliament. The Committee would like to be kept informed of any evaluation on the effectiveness of this new system which might be carried out.

A new Act on Support for Informal Care (937/2005) came into effect in 2006. Municipalities are responsible for organising support for informal care within the limits of their resources. This type of support encompasses the necessary

services for the person being cared for and a fee for the informal carer (the minimum fee is €317.22 per month .An informal carer can be a next-of-kin of the person being cared for or someone else close to him or her. In 2007, over 30,000 persons were being cared for by means of support for informal care (16,000 were aged over 75 years).

### *Housing*

The report provides no information on the housing situation of elderly persons. The Committee refers to information submitted in previous reports (Conclusions 2007, Article 23).

The Committee notes from another source<sup>23</sup> that grants can be made on social grounds for repairs to housing used by elderly people and the disabled, and can cover up to 40% of the approved repair costs. In exceptional cases, grants can cover up to 70% of the costs if an old or disabled person would otherwise have to move out permanently because of obstacles to movement or because they could not be provided with the social and health services they need in the existing facilities. The Committee asks to be kept informed in future reports on any new measures or initiatives to promote adapted and quality housing for elderly persons.

The Committee notes from MISSOC that a pensioners' housing allowance (Eläkkeensaajien asumistuki) may be awarded to a pensioner residing in Finland. The amount is proportional to the pensioner's income and housing costs as well as some other factors.

### *Health care*

In reply to the Committee's question, the report provides information on the health care programmes and services available for persons with dementia. In 2005 every fifth client with dementia was in long-term institutional care at a health centre ward, and similarly, around every fifth dementia client received regular home care services. Since 1999 the number of dementia clients receiving regular home care services had grown by 45 %. Home care services are increasingly targeted at persons with dementia illness. The number of dementia clients among those living in service housing units with 24-hour assistance and in residential homes increased by 66 % between 1999 and 2005 (the growth also reflects the growth in the number of group homes).

The National Advisory Board on Health Care Ethics published a report in 2008 on old age and ethics of care (“Vanhuus ja hoidon etiikka”). The report is intended for social and health care professionals working with older persons, political decision-makers, as well as older people, their relatives and significant persons for them. Good care is based on the older persons’ individual needs and hopes, respects their values and appreciates their opinions. An older person has the right to take part in the decision-making concerning his or her care and the place of care. He or she needs information about the different options and their impact.



The Committee asks to be kept informed of any new measures which might be taken to improve the accessibility and quality of geriatric and long-term care, or to improve the coordination of social and healthcare services in respect of the elderly.

### *Institutional care*

The report indicates that at the end of 2006, 6,5% of persons over 75 were in institutional care (either municipally arranged homes for the elderly or health centre wards). The number of homes for the elderly was 400, and that of health centres 200 (staffed respectively by 13 012 and 18 530 persons). These figures show that the situation has remained more or less the same since the last reference period which ended in 2004, except for a significant decrease in the number of persons working in public residential homes, which the Committee asks an explanation for. There were 44 private residential homes in 2005, with 2 300 residents.

The report reiterates there are no national statistics or registers on applications/waiting lists for residential care. Some municipalities nevertheless do have waiting lists. In Helsinki for example, where 10% of the population is aged over 65 there are around 100 persons on average waiting for admittance to institutional care (less than half of them are admitted within a month). Despite the absence of national statistics, the Committee asks whether the authorities consider that the current capacity in institutional care meets in general terms the demand for places in these structures.

As regards the inspection of institutions, the Committee recalls the importance of ensuring that any inspection system regarding the standards of care and services provided in institutions and residential facilities should be entirely independent of the body managing the facility. It considers in this respect that the system in place in Finland - where the Ministry of Health and Social Affairs is responsible for overall control of services in institutional care whereas the State Provincial Offices exercise control on the provincial level and the municipalities on the local level - does not guarantee a sufficient degree of independence, and therefore asks if there are any plans to establish an independent body with the authority to visit homes to monitor standards and check for signs of abuse and neglect.

As regards the use of physical restraints on elderly persons, the report states that drafting of legislation on this matter has been initiated by the Ministry of Social Affairs and Health. The Committee wished to be kept informed on the content and possible adoption of this legislation.

### *Conclusion*

The Committee concludes that the situation in Finland is not in conformity with Article 23 of the Revised Charter on the ground that the level of the national pension for low income elderly persons is manifestly inadequate.

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<sup>1</sup> *Finland Executive summary country report on measures to combat discrimination,*

*[http://www.migpolgroup.com/multiattachments/3483/DocumentName/fisum05\\_en.pdf](http://www.migpolgroup.com/multiattachments/3483/DocumentName/fisum05_en.pdf)*

<sup>2</sup> *MISSOC database, Comparative Tables on Social Protection,*

*[http://ec.europa.eu/employment\\_social/missoc/db/public/compareTables.do?lang=en](http://ec.europa.eu/employment_social/missoc/db/public/compareTables.do?lang=en)*

<sup>3</sup> *The Housing Finance and Development Centre,*

### **Article 30 - The right to protection against poverty and social exclusion**

The Committee takes note of the information in the Finnish report.

#### *Measuring poverty and social exclusion*

As the report does not provide any new information in this respect, the Committee refers to its previous conclusion (Conclusions 2007) for a detailed description of the indicators used by Finland to measure poverty.

According to the National Strategy Report on Social Protection and Social Inclusion for 2008-2010<sup>1</sup>, 13% of the population were living below the poverty threshold in 2007. This figure had increased by 0.5 percentage points since 2005. There was not therefore a significant rise in poverty during the reference period. However, the poverty rate has been increasing steadily since the mid-1990s. The Committee notes that according to Eurostat, the at-risk-of-poverty rate before social transfers was 29% in 2007 for a poverty threshold of 60% of the median equivalised income, which shows how effective a means these transfers are of combating poverty. The Committee notes from another source<sup>2</sup> that income disparities between Finland's provinces increased during the reference period. The main groups at risk of poverty and social exclusion are young people, families with children (particularly single-parent families), the long-term unemployed, homeless people, people with chronic illnesses, people with disabilities, over-indebted people, substance abusers, immigrants and people found guilty of criminal offences.

The Committee recalls that Article 30 does not only cover poverty but also social exclusion and the risk of social exclusion. It asks that the next report indicate how this phenomenon is tackled.

#### *Approach adopted to combating poverty and social exclusion*

The Committee points out that governments must adopt an overall and co-ordinated approach, which must comprise an analytical framework, and take measures promoting access to social rights, in particular employment, housing, training, education, culture and social and medical assistance for persons in, or at risk of finding themselves in, a situation of poverty or social exclusion.

The National Report on Strategies for Social Protection and Social Inclusion for 2006-2008 (or national action plan) was the main reference point for the overall approach to combating poverty and social exclusion in Finland during the reference period. It sets out four key political objectives:

- guaranteeing work opportunities: the aim is to make working life more attractive by facilitating access to the labour market, improving working

conditions, securing equal treatment in the workplace and reconciling work and family life;

- preventing social problems and social risks: special attention is paid to certain groups at particular risk, namely children, young people and families with children, and to specific problems such as those connected with drug abuse and mental health;
- safeguarding the continuity of measures to prevent and correct poverty and social exclusion: measures must be devised for the long term to maintain and develop a system of universal services and income security;
- ensuring the supply of skilled labour within a high-quality service system: the aim is to secure proper co-operation between services and proper client orientation.

In the light of the information available to it, the Committee considers that, on the whole, the approach taken by the Government establishes a clear analytical framework, sets proper priorities and fosters appropriate action. It is therefore in conformity with the Committee's interpretation of the overall and co-ordinated approach referred to in Article 30 of the Revised Charter.

The national action plan's strategic goals are income security, development of the service system, employment, housing and education. According to the report, the main measures and areas of activity are social protection reform, the reorganisation of municipalities and services, the health promotion programme, the programme for the well-being of children, young people and families, the programme for employment, the gender equality programme and a project for innovation in the social welfare and health care services.

The aim of the social protection reform that is currently being planned is to simplify the existing system. The process will continue to be guided by the principles set out by the Ministry of Social Affairs and Health in the national action plan 2003-2005, namely promoting health and functional capacity, making working life more attractive, preventing and remedying social exclusion, providing efficient services and ensuring reasonable income security. One of the main objectives of the employment programme is to provide protection for the unemployed ("unemployment security") while promoting a flexible labour market. With this goal in mind, the employment services are being restructured and the unemployment benefits system is being reformed. Measures have also been taken to promote employment among young people. In the housing field, the aim is to do more to assist the elderly, the long-term homeless, students and people with disabilities. A reform of housing benefits is also under way. In education, measures have been taken to reduce the number of young people dropping out of the system. For example, training, support and advice is now proposed to all pupils wishing to leave secondary school.

The Committee asks for the next report to include more details about current measures and information about their impact, their practical consequences and the results achieved in terms of reducing poverty and social exclusion. It also asks to be presented, where possible, with quantified indicators of the means deployed and the results achieved for each of the measures concerned.

### *Monitoring and assessment*

The Committee notes that statistical bodies and other organisations regularly publish information on trends in the population's living conditions, well-being and poverty levels. Research institutes play an important part in surveying poverty and social exclusion. All the information they provide is used by the Finnish authorities to take appropriate measures.

The Committee notes that non-governmental organisations (NGOs), health organisations, the Association of Finnish Local and Regional Authorities and representatives of the largest municipalities were consulted when the national action plan for 2008-2010 was drawn up. It asks for the next report to state precisely how the Government took account of their views. It also asks how, more generally speaking, civil society representatives take part in monitoring and assessing measures to combat poverty and social exclusion.

According to the report, a functioning democratic system, a sound judicial system and good governance enable citizens to influence decision making on poverty and social exclusion. Most decisions with a direct impact on poor population groups are taken at local level. The proper implementation of citizens' rights is monitored by special authorities such as the social ombudsmen appointed by local authorities.

Citizens also take part in the decision-making process through NGOs. According to the report, they play a major role in preventing poverty and social exclusion by providing a link between national policies and local authorities and giving socially excluded people opportunities to participate and express themselves. They have always been involved in areas such as child welfare, occupational rehabilitation and assistance for the elderly, the disabled and substance abusers. In the opinion of the Ministry of Social Affairs and Health, NGOs do have something more to give than other service providers. Churches and religious organisations also help to combat poverty and social exclusion. Their main goal is to alleviate distress and suffering among the poorest and most socially excluded groups. Examples of two particular areas in which they have been active are over-indebtedness and unemployment.

The Committee notes that the Government action programme for 2007-2011 outlines a new monitoring and assessment system. It comprises a series of indicators which will make it possible to monitor whether the targets set are being pursued and appropriate measures are being implemented, gauge the impact of these measures on efforts to reduce poverty and social exclusion and assess progress. The Committee will examine this new monitoring and assessment tool

during the next supervision cycle relating to Article 30 and asks for information in the next report on its implementation.

### *Conclusion*

The Committee concludes that the situation in Finland is in conformity with Article 30 of the Revised Charter.

- <sup>1</sup>[http://ec.europa.eu/employment\\_social/spsi/docs/social\\_inclusion/2008/nap/finland\\_en.pdf](http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2008/nap/finland_en.pdf), 2008-2010 report<sup>2</sup>[http://ec.europa.eu/employment\\_social/spsi/docs/social\\_inclusion/2006/nap/finland\\_en.pdf](http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2006/nap/finland_en.pdf), 2006-2008 report