



January 2014

European Social Charter (revised)

European Committee of Social Rights

Conclusions 2013

(FINLAND)

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

This text may be subject to editorial revision.

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

Information on the Charter and the Committee, as well as the statements of interpretation and the general questions formulated by the Committee, appear in the General Introduction to the Conclusions.¹

The European Social Charter (revised) was ratified by Finland on 21 June 2002. The time-limit for submitting the 8th report on the application of this treaty to the Council of Europe was 31 October 2012 and Finland submitted it on 19 September 2012. On 3 April 2013, a letter was addressed to the Government, requesting supplementary information regarding Articles 13§1, 14§2 and 23. The Government submitted its replies on 31 May 2013. Comments on the report from the Finnish LGBT Network and ILGA Europe were registered on 18 January 2013.

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

- the right to 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 the Articles from this group with the exception of Articles 3§§2 and 3.

The reference period was from 1 January 2008 to 31 December 2011.

The present chapter on Finland concerns 17 situations and contains:

- 12 conclusions of conformity: Articles 3§1, 3§4, 11§1, 11§2, 11§3, 12§2, 12§3, 13§2, 13§3, 14§1, 14§2 and 30;
- 4 conclusions of non-conformity: Articles 12§1, 12§4, 13§1 and 23.

In respect of Article 13§4, the Committee needs further information in order to assess the situation. The Committee consequently asks the Government to comply with its obligation to provide this information in its next report on the articles in question.

The next report from Finland deals with the accepted provisions of the following articles belonging to the 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)

The deadline for the report was 31 October 2013.

¹*The conclusions as well as state reports can be consulted on the Council of Europe's Internet site (www.coe.int/socialcharter).*

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Safety and health regulations

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

General objective of the policy

The Committee examined the general objective of the national occupational safety and health policy.

The report states that the policy is developed and monitored mainly by the Ministry of Social Affairs and Health, and evaluated periodically, using key indicators, in the light of changing risk factors. The Strategy on occupational safety and health of 1998 (Strategy), which according to the report reflects the Community strategy 2007-2012 on health and safety at work,¹ is the main reference document. According to the the Fourth follow-up report on the Strategy (Fourth follow-up report),² the policy fulfils the occupational safety, occupational health and working environment objective. The same applies to the Policies for the work environment and well-being at work until 2020, adopted in 2011, and designed to succeed the Strategy.

The Committee considers that the general objective of the policy is in conformity with Article 3§1 of the Charter. It asks, however, that the next report provide updated information on the legislative, regulatory and case-law developments that occurred during the reference period.

Organisation of occupational risk prevention

The report contains little relevant information for the reference period. The Committee wishes to point out that the information must be detailed in relation to the rights and obligations applicable to occupational risk prevention, and in relation to the public and private structures involved in the matter. According to the Strategy,³ employers and workers are the principal actors in the evaluation of working conditions and occupational risk prevention, under co-operation procedures determined by collective agreements, and additionally by law. According to the same source, employers and workers are informed and advised in their efforts by Regional State Administrative Agencies, under the supervision of the Ministry of Social Affairs and Health. According to the Fourth follow-up report, the Labour Inspectorate, attached to the Regional State Administrative Agencies, is involved in developing a culture of occupational safety and health among employers and workers (workplace monitoring; inspection reports communicated to employers and workers; consultation by phone; safety competitions).

Improvement of occupational safety and health

The report contains little information in this regard. According to the Strategy, employers and workers are the principal actors in evaluating and improving occupational safety and health. According to the same source, the Regional State Administrative Agencies are tasked with raising awareness among those directly concerned, and developing their ability to evaluate occupational safety and health through advice on good practice and workplace inspections. Sectoral public bodies (Finnish Transport Safety Agency; Finnish Safety and Chemicals Agency) and non-public bodies (Finnish Institute of Occupational Health; Centre for Occupational Safety; Finnish Work Environment Fund) support these efforts to improve workers' safety and health through research and development work and training measures and by disseminating information on the subject.

Consultation with employers' and workers' organisations

Although it lists numerous bodies, the report does not give an account of the mechanisms for consulting employers' and workers' organisations. According to the Strategy, the Ministry of Social Affairs and Health must consult the Advisory Committee on Occupational Safety and Health, a tripartite body, in administering occupational safety and health, developing good practice and preparing legislation. This consultation mechanism is replicated at regional level. According to the same source, numerous employers' and workers' organisations contribute to law-making and to the development and implementation of policy, including at corporate level.

In the light of this information, the Committee notes the existence of effective social dialogue in the formulation, implementation and periodic review of policy.

Conclusion

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

¹*Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Doc. COM(2007)62final, 21 February 2007.*

²*Ministry of Social Affairs and Health: Occupational Safety and Health Strategy: Fourth Follow-up Report, Helsinki 2011; available at http://www.stm.fi/en/publications/publication/-/_julkaisu/1557795*

³*Ministry of Social Affairs and Health: Occupational Safety and Health Strategy in Finland, Helsinki 2010; available at http://www.stm.fi/julkaisut/nayta/-/_julkaisu/1536678*

Article 3 - 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 Committee took note of the fact that Act No. 1383/2001 on occupational health requires all employers to give their entire staff access to occupational health services and that Act No. 131/1973 on the supervision of occupational safety and health matters provides for checks by the labour inspectorate (Conclusions 2007 and 2009). It also took note that employers who do not have their own occupational health services may use shared services (Conclusions 2007). Having noted that the provision of such services varied from one region to another and overall coverage remained insufficient, it asked for information on the progress made in improving transport sector workers' access to occupational health services (Conclusions 2009).

The report states that a number of measures have been implemented in consultation with the public authorities and employers' organisations since the adoption, in 2004, of the Government resolution entitled "Occupational health 2015 – Development strategy for occupational health care", aimed at improving small businesses' access to occupational health services. In particular the report cites the establishment of working groups of the Ministry of Social Affairs and Health responsible for proposing strategies to improve the overall coverage of occupational health services, the provision of occupational health services for small businesses, the quality of occupational health services, the training of occupational physicians and the employment of qualified staff; to ensure early intervention by occupational physician in cases of prolonged disability for work; and to make payment of the sickness allowance as from the 91st day of absence subject to an opinion by the occupational physician. Amendments, which entered into force on 1 June 2012, were made to Acts Nos. 1224/2004 on health insurance and 1383/2001 on occupational health so as to make it obligatory to report prolonged sick leave to the occupational physician; to provide for the occupational physician to issue opinions on an employee's fitness for work and on plans for the return to work of employees on long term sick leave; and to make the partial reimbursement of the cost of occupational health care services subject to the existence of an agreement between the employer and those services on the monitoring of absences from work.

The report states that the activities of the Finnish Institute of Occupational Health supplement the measures taken under the Government resolution as regards the transport sector. Various projects aim at promoting healthy nutrition for drivers; incorporating the examination of fitness to drive in the training dispensed to occupational physicians; offering a new model for access to occupational health services for self-employed drivers and very small enterprises.

The Committee takes note of this information. It considers that, given the recent amendments and strategies undertaken to step up the gradual establishment of occupational health services, their results cannot be evaluated fully until the next supervision cycle, and asks to be informed of the outcome of these amendments and strategies in practice. It also requests information clarifying the manner in which access to occupational health services takes place in practice for temporary workers, self-employed workers and workers whose status is not governed by an employment contract. It also wishes to receive information on the participation of employee organisations in the consultations held before the amendments and strategies were implemented.

In view of the progressive nature of the obligation in Article 3§4 of the Charter, the Committee requests information on the number of occupational physicians in relation to the total workforce;

the number of workers monitored by occupational health services; and the percentage of employers covered by occupational health services be provided in the next report.

Conclusion

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

Article 11 - 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.

Right to the highest possible standard of health

The Committee notes from Eurostat that the life expectancy at birth in 2009 (average for both sexes) was 79.3 (the EU-27 average that same year was 79.0).

The death rate (deaths/1 000 population) was 9.49 in 2010, this indicator remaining quite stable during the reference period.

In its previous conclusion (Conclusions 2009), the Committee noted that deaths as a result of suicide were more frequent in Finland than in other European countries. The report indicates in this respect that during the reference period, the number of suicides has been on the decrease and is currently the lowest in 40 years.

Infant mortality has continued to decline slightly. In 2010 the rate of infant mortality in Finland was 2 per 1 000 live births, whereas the rate of 2009 was 2.7.

In reply to the Committee, the report indicates that the most important causes of infant mortality are perinatal causes (e.g. congenital structural defects; nearly half of all infant deaths), congenital malformations and chromosomal anomalies (approximately one third of all infant deaths), and cot deaths (slightly less than one tenth of all infant deaths).

In 2010 the rate of maternal mortality was 4.92 per 100 000 live births (a significant decrease from 8.4 deaths per 100 000 live births in 2008).

Right of access to health care

The new Health Care Act (1326/2010), regulating the content of health care services and activities, took effect on 1 May 2011. All local authorities and joint municipal authorities for hospital districts must ensure that services are available and universally accessible in their area to the residents who come under their jurisdiction. The content and scope of the health care services provided must correspond to the welfare, patient safety, social security, and health circumstances of the residents.

A patient may change his or her health station within the home municipality or the cooperation area once a year. The patient must inform both the new health station and the old one of the change three weeks prior to the first visit. It is also possible to change the specialised health care unit within a so-called area of responsibility, which is formed by neighbouring hospital districts. The patient chooses the specialised health care unit in cooperation with the doctor issuing the referral to care. From 2014 onwards the patient will have the right to choose his or her health station and specialised health care unit from all the public health stations and hospitals in the country.

As regards waiting times, the report states that in recent years the waiting times for care in hospitals of the different hospital districts have stabilised. Since 2010, 22% of all patients have waited for access to care no more than three months. The percentage of patients waiting for care more than six months has varied between 1.2% and 1.7%. In specialised health care units maintained by primary health care services, the percentages have varied slightly more.

The waiting times for a first consultation have shortened considerably compared with previous years. This is visible in almost all specialised fields, and mostly in surgery and eye diseases. At

the end of April 2012, nearly 8 700 persons (10% of all patients) had been waiting for the first consultation in a hospital district more than three months. This was one thousand persons less than at the end of December 2011.

The Regional State Administrative Agencies supervise access to care in health centres. The National Supervisory Authority for Welfare and Health (Valvira) supervises the overall situation of access to specialised health care, including mental health care services for children, young persons and adults.

According to the report, the supervising authorities have established that any treatment considered necessary must be provided to the patient within three months of the assessment of the need. It is difficult to define an unambiguous criterion for establishing whether this obligation has been fulfilled. In many cases providing the treatment means that the patient can consult a doctor in primary health care within three months. However, providing the treatment may also mean something else, e.g. care in a hospital, provision of medical aids or physiotherapy.

The assessment of the situation of access to care is initially based on reports of the National Institute for Health and Welfare on those daily situations where the patient's need for care has been established but consultation with a doctor has not been possible. Another criterion is that the health centre in question has not answered inquiries of the Institute. In the event of problems with access to care, the Regional State Administrative Agencies decide themselves what discretionary measure to take.

In the last examination the Committee adopted a general question addressed to all States on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. In response, the report indicates that pursuant to the Act on Welfare for Substance Abusers (41/1986), municipalities must provide substance abuse services that are in accordance with the needs of the municipalities both in their content and coverage. In addition to the units providing specialized services for substance abusers, increasing numbers of substance abusers are treated within primary social and health care services, including social welfare offices and child welfare services, mental health clinics, health centre clinics and wards, hospitals and psychiatric hospitals. The Finnish system emphasizes that drug treatment as such is often insufficient and the substance abuser should be assisted in solving problems related to income, living and employment.

As regards the right to protection of health of transgender persons the Committee received submissions from the International Lesbian and Gay Association (European Region) (ILGA) stating that "in Finland there is a requirement that transgender people undergo sterilisation as a condition of legal gender recognition". In this respect, the Committee refers to its question on this matter in the General Introduction.

Conclusion

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

Article 11 - 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.

Education and awareness raising

The Committee notes from the report that Section 12 of the Health Care Act obliges local authorities to promote the health and welfare of their residents and to monitor the health and welfare and any underlying factors per population group. Local authorities must report regularly on the health and welfare of residents and identify, in their strategic plans, objectives for health and welfare awareness-raising and promotion. They must assign coordinators for health and welfare promotion and cooperate with other actors on a broad basis.

Many local authorities provide information on health related issues at their own websites and in different publications. Some local authorities have arranged interactive programmes for their residents, e.g. health tests, health information and opportunities to ask questions. Such programmes are also being developed at national level. There are often television broadcasts dealing with healthy life habits, such as healthy nutrition, increased physical exercise and giving up smoking. In the field of sexual health, different organisations have carried out campaigns to promote the use of condoms.

As regards health education at schools, this has been a statutory obligation since 2001. Health education is a separate subject in grades 7 to 9 of comprehensive schools, in the first and second grades of general upper secondary schools, and in vocational institutions. In pre-primary schools and in the lowest grades of comprehensive schools, health education is integrated into other subjects.

Since 2007 health education has been included in the curricula for humanities and natural sciences. The content of health education in comprehensive schools essentially consists of 1) human growth and development (e.g. taking care of one's own health), 2) health in everyday choice situations (e.g. nutritional needs and problems in different situations, smoking, alcohol and other intoxicants, sexual health, the most common contagious diseases, traffic safety and behaviour); 3) resources and coping skills and 4) health, society and culture (e.g. national diseases).

Counselling and screening

The report states that pursuant to Section 15 of the Health Care Act local authorities must provide within their area maternity and child health clinic services for pregnant women and families expecting a child, as well as for children under school age and their families.

The services for pregnant women include regular checks to ensure the health of the mother and the foetus, foetal and infection screenings and other examinations. In addition, the services include family and health counselling. Mother and baby clinics provide their services free of charge.

As regards health checks for children, the activities of child health clinics and school-based health care are regulated by the Health Care Act and the Government Decree on Maternity and Child Welfare Clinics, School and Student Health Care and Preventive Oral Health Care for Children and Young People (338/2011). Local authorities must arrange at least 15 health checks at child health clinics for all children before they start school. Three of these are extensive health checks. A child's both parents are invited to attend the extensive health

checks, during which the clinics assess the whole family's well-being and possible needs for support.

In addition, the health services at clinics and school must include health counselling according to need and identification of children and families in need of particular support. The necessary support must be arranged without delay. Health care at school must include monitoring and promoting the healthiness and safety of the school environment and community. Health care at school, too, includes a health check every year. The services of child health clinics and school-based health care are provided free of charge.

Monitoring reports show that the new legislation has considerably improved the implementation of health checks, although some deficiencies have still been found. In 2011, approximately four fifths of all health centres conducted extensive health checks. The National Supervisory Authority for Welfare and Health and the Regional State Administrative Agencies supervise the implementation of the above-mentioned legislation and intervene in the worst cases. The Committee asks what were the main problems identified in this area, and the follow-up action taken by the supervisory authorities.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 11§2 of the Charter.

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases and accidents

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

Healthy environment

Environmental Health Care is part of preventive health care and protects the health of individuals and their living environment. Section 21 of the Health Care Act contains a provision on environmental health care, according to which local authorities must provide environmental health care services within their area according to the provisions of the Act on Cooperation Areas in Environmental Health Care (410/2009).

The Committee notes that according to Section 21(2) of the Health Care Act, the provision of environmental health care is governed by the Health Protection Act (763/1994), the Food Act (23/2006), the Chemicals Act (744/1989), the Tobacco Act (693/1976), the Veterinary Care Act (765/2009) and the Act on Safety of Consumer Goods and Consumer Services (75/2004). The latter has been repealed by the Consumer Protection Act (920/2011), which entered into force on 1 January 2012.

In 2011 Finland started to draft a national Water Safety Plan (WSP). The Finnish WSP covers the assessment of health risks and the organisation of water management in respect of both domestic water and waste water. The objective of the WSP is to ensure the safety of domestic water in all circumstances. The WSP should be available by the end of 2014. The Committee asks to be kept informed on its adoption and implementation.

During the reference period, Finland also implemented Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality. The purpose of the Directive is to ensure safe bathing water in all circumstances during the bathing season.

Tobacco, alcohol and drugs

The new Tobacco Act (693/1976, amended by Acts 1731/2009, 1538/2009 and 698/2010) entered into force on 1 October 2010, with the objective of putting an end to the use of tobacco products in Finland.

The purpose is to achieve this aim by preventing in particular children and adolescents from taking up smoking. Not only shops but also private persons may not sell or supply tobacco products to persons under 18. Persons under 18 are prohibited from importing and possessing tobacco products. Further, sellers of tobacco products must be at least 18 years old. There is a total ban on the sale of snuff in Finland, as the ban on import and sale has been extended to also apply to private persons. A maximum of 30 packets may however be imported for one's own use. In addition, the prohibitions against smoking have been extended to facilities used by children and young people, joint facilities of apartment house companies, outdoor events and hotel rooms. Since 2012 tobacco products or their trademarks may not be displayed in retail sale facilities. Furthermore, the sale of tobacco products from vending machines will be forbidden in 2015.

The Committee notes that during the reference period, smoking prevalence has decreased among both adults and youth. The rate of daily smoking among adults was 21% in 2007 and 19% in 2010. Daily smoking among men was at 23% and among women 16% in 2010. The percentage of young persons aged 14–18 using tobacco products daily decreased from 19% in

2007 to 17% in 2011. The daily smoking rate among boys that year was 18% and among girls 16%.

As regards the consumption of alcoholic beverages, the report states that it declined for three consecutive years between 2008 and 2010 to 10.0 litres of 100 per cent alcohol per capita. This is due to three increases in alcohol excise duties in 2008 and 2009. The detrimental effects of alcohol have also been declining. Until 2010, the police filed fewer cases of domestic disturbances, aggravated assaults, and drunken driving. These positive trends nevertheless stopped in 2011. The Committee asks what measures have been taken in view of the deteriorating trends in 2011.

Immunisation and epidemiological monitoring

As the report does not address this question, the Committee asks for up to date information on the national vaccination programme, as well as the vaccination coverage rate.

Likewise, it requests up to date information on the arrangements for reporting and notifying diseases and emergency measures in case of epidemics.

The Committee notes the HIV and AIDS situation in Finland and the mortality of HIV infected patients in Finland in 2008–2011.

Accidents

According to the report, the number of deaths caused by traffic and occupational accidents has been on the decrease. Likewise, the number of deaths caused by home and leisure time accidents has decreased slightly. Nevertheless, 80% of accidents still happen at home and during leisure time. The Committee wishes to receive information in the next report on the measures taken to prevent these accidents.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 11§3 of the Charter.

Article 12 - 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.

Risks covered, financing of benefits and personal coverage

In its previous conclusion (Conclusions 2009) the Committee asked for information regarding the personal coverage of the social security branches. It notes from the report that social security is to a significant extent based on residence and mainly tax-financed. All legal permanent residents are entitled to certain benefits, such as the national pension, health insurance, labour market allowance, maternity allowance, housing allowance, social assistance and student grant.

As regards the *unemployment benefit*, according to the report the share of wage earners who are members of unemployment funds stood at 83.3% in 2011. These are the persons who fulfil the employment requirement (have been gainfully employed for 34 weeks during the membership). Moreover, unemployed persons who do not fulfil this requirement and are not members of unemployment funds may receive the basic unemployment allowance.

The Committee further notes from the report that self-employed persons may insure themselves through the unemployment fund of self-employed persons. In 2010 the employment requirement for self-employed persons was shortened from 24 to 18 months. A self-employed person who is not a member of the fund may receive a basic daily allowance from the Social Insurance Institution of Finland (at €31.36 per day in 2012).

The Committee notes that the personal coverage of the unemployment benefit is satisfactory. However, the Committee wishes to be informed of the percentage of all persons insured against unemployment risk out of the total active population (i.e. total number of employed and unemployed persons).

As regards personal coverage of the *healthcare*, according to the report, all people residing in Finland are covered by the health insurance.

As regards the *sickness benefit*, the report states that as compensation for loss of income due to short-term sickness, sickness allowance is paid for the time of the person's incapacity for work. The Committee asks what is the percentage of all persons insured against sickness risk out of the total active population.

As regards personal coverage of *old-age benefits*, the report states that the population share of persons older than 65 years among all pension recipients in Finland is close to 100%. The Committee asks what is the percentage of persons insured against old-age risk out of the total active population.

Adequacy of the benefits

The Committee notes that 50% of the Eurostat median equivalised income stood at € 909 in 2011.

In its previous conclusion the Committee held that the minimum levels of sickness, maternity and national pension for single persons were manifestly inadequate.

As regards the *sickness benefit*, the Committee notes from the report that in 2011 the daily allowance for sickness was increased to €22.13 for 25 days a month, thus amounting to

€553.25 per month. The Committee holds that the minimum level of sickness benefit is manifestly inadequate as it falls below 40% of the median equivalised income.

As regards *old-age benefits*, the Committee notes from the MISSOC that the guarantee pension (*takuueläke*) guarantees a minimum pension for residents with a small pension or with no other pension. According to the report, the Act on Guarantee Pensions (2010/703) entered into force on 1 March 2011. The guarantee pension is financed by the State and administered by the Social Insurance Institution. The amount of the guarantee pension stood at €688 in 2011. According to the report the amount of the housing allowance for pensioners is affected by their pension income, including the guarantee pension. The Committee holds that the minimum level of guarantee pension is inadequate as it falls below 40% of the median equivalised income.

As regards *unemployment benefit*, the Committee notes from MISSOC that the Basic Unemployment Allowance (*peruspäiväraha*) amounted to €31.36 per day in 2011. At the rate of 25 days for month, it amounted to €784 per month. The Committee asks what supplements (e.g. a housing benefit) may be added to the unemployment benefit and what is their average amount.

In reply to the Committee's question, the report states that the system of unemployment insurance must steer job seekers to search for employment actively and to improve their personal capacities for finding work. The rules governing the sanctions were revised (effective on 1 June 2012) and the applicable rules were clarified.

According to the report, during the first three months of their unemployment, skilled persons may, without forfeiting their right to an unemployment benefit, refuse to accept employment that can be considered unsuitable for them considering their skills.

Likewise, a jobseeker who has received labour market subsidy on account of his or her unemployment for at least 500 days or has received labour market subsidy on account of unemployment for at least 180 days after the maximum period for the basic unemployment allowance, forfeits his or her right to labour market subsidy if he or she, without a valid reason, refuses to accept offered employment or services of an Employment and Economic Development Office, resigns from work or interrupts employment services.

An Employment and Economic Development Office issues, for unemployment fund or the Social Insurance Institution, a binding employment policy statement on the question how a jobseeker's refusal to accept employment, resignation from work or refusal or interruption of a measure has influenced his or her right to an unemployment benefit. On the basis of the statement the unemployment fund or the Social Insurance Institution issues the decision. The decision may be appealed against to the Unemployment Appeal Board, whose decision can further be appealed with the Insurance Court.

Conclusion

The Committee concludes that the situation in Finland is not in conformity with Article 12§1 of the Charter on the grounds that:

- the minimum level of sickness benefit is manifestly inadequate.
- the minimum level of old-age benefit is inadequate.

Article 12 - Right to social security

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

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

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).

The Committee notes that Finland has not ratified the European Code of Social Security nor ILO Convention No. 102. Therefore the Committee cannot take into 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 social security system of Finland covers all the nine branches. The Committee notes that the situation is in conformity with the Article 12§1 as regards the personal scope of social security risks.

The Committee notes from the report that earnings-related pensions have remained at a stable level in relation to pay (the net compensation rate is around 65%). Insurance against employment accidents or occupational diseases guarantees a high compensation rate, over 90% of the recipient's net pay. The compensation rate of the unemployment insurance is around 60% of the net pay. Daily sickness allowances compensate for almost 90% of the net pay.

Finland has ratified ILO Conventions No. 121 (Employment Injury Benefits, 1964), No. 128 (Invalidity, Old-Age and Survivors' Benefits, 1967), No. 130 (Medical Care and Sickness Benefits, 1969) and No. 168 (Employment Promotion and Protection against Unemployment, 1988). The ratification of these Conventions is an indicator of the possibility for Finland to accept the corresponding branches of the Code.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 12§2 of the Charter.

Article 12 - 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.

According to the report, the Act on Guarantee Pensions (2010/703) entered into force on 1 March 2011. According to the Act, those with a very small pension may apply for a guarantee pension to ensure a reasonable level of income. According to the report, in 2010 the legislation on earnings-related pensions was reformed in order to raise the level of disability pensions, particularly for the young. Disability pensions that have continued for five years were increased permanently by a lump sum, the amount of increase depending on the age of the pension recipient.

As regards unemployment benefit, a number of legislative amendments improving unemployment security took effect at the beginning of 2010. The qualifying period was reduced from 43 to 34 weeks while that for an entrepreneur from 24 to 18 months. As a new benefit, an increment in the basic unemployment allowance was introduced for the first 20 days of unemployment. Those participating in activation measures now receive an increment in the basic daily allowance for a maximum of 200 days of their participation. Moreover, all unemployed job seekers attending training are entitled to an equal amount of a benefit irrespective of whether the training is arranged by an Employment and Economic Development Office or sought by themselves. Besides, the Act 144/2011 supplemented the Unemployment Security Act with a provision on a time limit, within which applications for unemployment benefits must be processed. A decision must be issued within 30 days of the receipt of the application.

The Committee also notes that, since the beginning of 2012, employees working a shortened week because of a layoff receive a full unemployment benefit instead of an adjusted benefit for the layoff days.

As regards the sickness allowance, according to the report, the provisions of the Health Insurance Act were amended by an Act (532/2009), whereby the insured person on sick leave is given the right to work part time and at the same time to receive a part-time sickness allowance from the beginning of his/her disability for work, after a waiting period stipulated in the Health Insurance Act. The payment of a part-time allowance is no longer conditional upon an immediately preceding continuous period of 60 days with a sickness allowance. The amount of the part-time sickness allowance is already half of the amount of the immediately preceding sickness allowance.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 12§3 of the Charter.

Article 12 - 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§4)

Right to equal treatment

Equal treatment between nationals and nationals of other States Parties in respect of social security rights shall be ensured through the conclusion of bilateral or multilateral agreements or through unilateral measures.

The coordination of social security systems of the European Union Member States (EU) is governed by Regulation (EC) No. 883/2004 and by Regulation (EC) No. 987/2009 (these regulations apply also to Member States of the European Economic Area – EEA). Article 4 of Regulation (EC) No. 883/2004 explicitly provides for equality of treatment between nationals, on the one hand, and, on the other hand, nationals of other Member States, stateless persons and refugees resident in the territory of a Member State who are or have been subject to the social security legislation of one or more Member States, as well as to the members of their families and to their survivors. Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 are extended by Regulation (EU) No. 1231/2010 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, as well as to members of their families and their survivors, provided that 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). This concerns, inter alia, the situation of a third country national who has links only with a third country and a single Member State.

The Committee recalls that, in any event, under the Charter, EU States are required to secure, to the nationals of other States Parties to the 1961 Charter and to the Charter not members of the EU, equal treatment with respect to social security rights provided they are lawfully resident in their territory (Conclusions XVIII-1). In order to do so, they have either to conclude bilateral agreements with them or take unilateral measures.

Finland has not negotiated any bilateral agreements with States Parties that are not EU or EEA members. The report indicates that third country nationals coming to Finland from other Nordic countries (or EU/EEA countries) benefit from equal treatment. However, the report is silent on the situation of third country nationals coming from outside these above-mentioned countries. The Committee, therefore, concludes that the situation is not in conformity with Article 12§4 of the Charter on the ground that equal treatment in matters of social security entitlement is not guaranteed between Finnish nationals and nationals of all the other States Parties.

In respect of the payment of family benefits, the Committee previously considered that, under Article 12§4, any child resident in a country is entitled to those benefits on the same basis as the citizens of the country concerned. Whoever the beneficiary may be under the social security scheme – the worker or the child – the States Parties are obliged to guarantee, through unilateral measures, the effective payment of family benefits to all children resident on their territory. In other words, the requirement for the child concerned to reside on the territory of the State concerned is compatible with Article 12§4 and with its Appendix. However, as not all the countries apply such a system, the States, which impose a child residence requirement, are under an obligation, in order to secure equal treatment within the meaning of Article 12§4, to conclude within a reasonable period of time bilateral or multilateral agreements with those

States which apply a different entitlement principle. Given that no such agreements exist with non EU/EEA countries, the Committee concludes that equal treatment is not guaranteed with regard to access to family allowances in respect of nationals of all other States Parties.

Right to retain accrued benefits

The Committee recalls that in order to ensure the exportability of benefits, States may choose between bilateral agreements or any other means such as unilateral, legislative or administrative measures. The report states that work-related benefits are exportable outside the EU/EEA states, but fails to indicate the means ensuring this exportability. The Committee, therefore, concludes that the situation is not in conformity with Article 12§4 of the Charter on the ground that it has not been established that the retention of accrued benefits is guaranteed for nationals of all other States Parties.

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

Given the silence of the report, the Committee concludes that the situation is not in conformity with Article 12§4 of the Charter on the ground that the right to maintenance of accruing rights is not guaranteed for nationals of all other States Parties.

Conclusion

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

- equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;
- equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;
- it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties;
- the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

Article 13 - 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, as well as of the additional information provided in an addendum to the report.

Types of benefits and eligibility criteria

The report indicates that the competence for implementing the Social Assistance Act has been transferred from the municipalities to the Regions (from 2010) and that the basic amount of social assistance has been unified (in 2008) and increased by 6% (from 2012, i.e. outside the reference period). In addition, new rules have been introduced to ensure that requests for social assistance are speedily decided and implemented.

In its previous conclusions (Conclusions 2009 and XVIII-1) the Committee noted that the possibility to reduce the social assistance benefit by up to 20% under certain circumstances did not amount to a breach of the Charter, insofar as this does not amount to the deprivation of means of subsistence for the person concerned.

In this connection, the report reiterates that, as from 2011, such reduction can be applied to young persons aged 18-24 who are not entitled to an unemployment benefit for having, without a valid reason, refused work or an employment policy measure, or interrupted education or training. The report highlights that this only concerns the basic amount of social assistance and that the reasonableness of the measure is assessed in the light of the protection of fundamental rights. Therefore the Committee considers that such situation does not amount to a breach of the Charter.

Level of benefits

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

- Basic benefit: according to MISSOC and the report, the monthly amount of the basic social assistance benefit stood at €419 in 2011;
- Additional benefits: other expenses for which additional social assistance may be granted include 100% of reasonable housing costs, substantial medical expenses, child day-care costs and other costs which are considered to be essential. The national statistics on social assistance do not provide information on assistance for housing costs or health costs;
- Poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €909 in 2011.

According to the information provided in the report, the basic benefit only corresponds to 23% of the median equivalised income. In its previous conclusion (Conclusions 2009) the Committee had however noted from the report that the basic benefit on average represented around 40% of the total social assistance, with housing expenditure making up another 40% and the rest accounting for everything else, and had accordingly found that the situation was in conformity with the Charter. The Committee asks the next report to indicate whether these estimations still apply, and reserves meanwhile its position on this issue.

Right of appeal and legal aid

In reply to the Committee's question, the report confirms that applicants wishing to appeal to the municipal social welfare board can get cost-free counselling from the municipal officer for social affairs. They can also seek advice from the local legal aid office of the state which, depending on their resources, will provide legal aid free of charge or upon a contribution.

The decisions of the municipal social welfare board can be appealed to an administrative court and the procedure is free of charge for the applicant. Aid and counselling from municipal officers for social affairs and legal aid office of the state are also available for appeals against decisions of the administrative courts to the Supreme Administrative Court.

The report furthermore indicates that decisions concerning pensions and benefits paid by the Social Insurance Institution can also be appealed to specialised appeal boards, whose decisions can be appealed to the Insurance Court. The appeal boards and the Insurance Court do not charge any processing fees and, depending on the applicant's resources, free legal aid can be provided.

Personal scope

In its previous conclusion the Committee noted that under the Social Welfare Act (710/1982) municipalities are obliged to provide assistance to their residents – including foreign nationals – without resources. In response to the Committee's question, the report indicates that this applies to foreign nationals with a valid permanent residence permit. The report specifies that if the residence permit is temporary, social assistance is usually granted only in urgent cases and for indispensable costs of living, i.e. emergency social and medical assistance. The additional information provided indicates that the granting of residence status is subject to a condition of resources, however the requirements laid down in the Aliens Act for nationals of the EU/EEA states and their family members are different from those for nationals of other countries. The Committee notes from the official website of the Ministry of Foreign Affairs of Finland¹ that foreign nationals wishing to stay in Finland for 90 days or longer must apply for a residence permit, which can be initially granted for a period of one year, renewable. A permanent residence permit can be granted when the applicant has been resident in Finland for four consecutive years on a continuous residence permit. Nationals from Nordic countries (Sweden, Norway, Denmark, Iceland), EU and EEA, as well as nationals from Switzerland and Liechtenstein are not required to hold a residence permit. The Committee understands from the information available that nationals which are not from the above-mentioned countries, but are nonetheless from States which are Parties to the Charter, are not entitled to social and medical assistance on an equal footing with Finnish nationals unless they have a permanent residence, i.e. unless they have regularly and continuously been resident in Finland for at least four years. It accordingly holds that the situation is not in conformity with Article 13§1 of the Charter.

Conclusion

The Committee concludes that the situation in Finland is not in conformity with Article 13§1 of the Charter on the ground that the granting of social assistance benefits to foreign nationals from certain States Parties to the Charter, legally residing in Finland, is subject to an excessive length of residence condition.

¹<http://formin.finland.fi/public/default.aspx?nodeid=15721&contentlan=2&culture=en-US>

Article 13 - Right to social and medical assistance

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

The Committee takes note of the detailed information contained in the report submitted by Finland in reply to its request.

The report states that political and social basic rights and liberties are safeguarded under the Constitution and guaranteed for every person within the jurisdiction of Finland. These principles apply to everybody, and no restrictions are permissible under the constitutional law in the exercise of social and political rights.

In particular, the Act on the Status and Rights of Social Welfare Clients (812/2000) provides that clients should be treated without violating their human dignity and respecting their convictions and privacy. Furthermore, the Non-Discrimination Act (21/2004) applies *inter alia* in the context of social welfare and health care services.

In addition, no restriction applies in practice to recipients of social assistance.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 13§2 of the Charter.

Article 13 - 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. In addition, it notes from the report that the Social Assistance Act provides for preventive social assistance, aimed at enabling participation in societal activities. Preventive social assistance (including for example measures to secure housing, to support the activation of the recipient or to alleviate difficulties resulting from over-indebtedness) is granted by municipalities on the grounds decided by them, without endangering the client's right to indispensable subsistence and care. The law provides that the decision on social assistance should be taken at the latest on the next working day after receipt of the application in the most urgent cases, and at the latest within one week in other cases. The decision to grant social assistance must be enforced without delay and if the client wishes to consult a social worker or a social advisor he must be able to do so within one week from the request.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 13§3 of the Charter.

Article 13 - 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.

The Committee refers to its previous conclusion (Conclusions 2009), where it had noted that aliens without a permanent residence permit are entitled to emergency assistance by the municipalities, such as food, shelter, other expenses or assistance to return home and that the Constitution provides for the right of everyone to receive indispensable subsistence and care. The Committee had also noted that all persons in need of urgent medical care are entitled to receive it.

In particular, while recalling that, as a rule, social assistance to aliens without a residence permit (such as tourists) is limited to covering their travel and other expenses necessary to help them to return their country of residence, to the extent that no other means are available, the report indicates that, in certain cases, social assistance can be provided also to aliens without a residence permit on equal footing with residents (for example, pending examination of the alien's request for a residence permit, when the issuing of such a permit is probable).

The Committee notes from another source (FRA – Fundamental rights of migrants in an irregular situation in the European Union, November 2011) that irregular aliens are issued with a temporary residence permit if they cannot be returned for temporary reasons of health or if they cannot actually be removed from the country. A number of sources, including UNHCR, research studies carried out in the framework of the EU and the Red Cross indicate however that undocumented aliens (whose number was estimated in 2012 to range between 3000 and 4000) do not have in practice an effective access to healthcare and that, to improve the situation, a special clinic, operated on a voluntary basis, was opened in 2011 near Helsinki.

The Committee asks the next report to provide updated information and details of the nature and extent of the emergency social assistance which can be provided to foreign nationals in immediate and urgent need and, in particular, to undocumented aliens.

Conclusion

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

Article 14 - Right to benefit from social services

Paragraph 1 - Promotion or provision of social services

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

Organisation of the social services

The report states that a comprehensive overhaul of the social welfare legislation is being carried out to improve the existing legislation. The Committee asks that the next report describe the changes adopted.

The revised Act on Services and Assistance for the Disabled (Act 380/1987; revised in 2009) improves access to services for people with disabilities. In particular, it states that the assessment of the person's need for services must start within seven days following the application and that the decisions must be taken and implemented within three months following the request. In addition, under the revised Act, persons with severe disabilities, who require repeated assistance in their everyday activities, are entitled to personal assistance, to be provided free of charge by the municipal authorities.

Effective and equal access

In the absence of new information in the report on equal and effective access to social services, the Committee wishes to know whether the description provided in the previous conclusion (Conclusions 2009) is still accurate.

Quality of services

The Government has launched a national development plan for social welfare and health care (the so-called *Kaste* Programme) for the period 2012-2015. The aim of the programme is to renew these services and to improve their availability, notably by organising them in a more client-oriented way. The Committee requests that the next report provide an assessment of this programme.

The Social Welfare Act (710/1982) was supplemented by Act 670/2008, which came into force in the beginning of 2010, on the supervision of the quality of services provided by municipalities and municipal boards. Inspections of activities and premises may be carried out by the National Supervisory Authority for Welfare and Health (Valvira) and by the regional agencies. The authority can order municipalities to correct any shortcomings found that endanger client safety. Where necessary, it can threaten them with fines, suspension of activity and even closure.

Noting that the report does not provide the requested information on the staffing of social services, the Committee reiterates its request. The Committee underlines that if the necessary information is not provided in the next report there will be nothing to show that Finland is in conformity with the Charter.

Act 272/2005 and Decree 638/2005 on qualification requirements for social welfare professionals, which came into force on 1 August 2005, lays down the qualification requirements by job title, including for management posts. This applies to both public service providers and private service providers, who are governed by Act 603/1996 on the supervision of private social services. The Committee refers to the report, which gives details of the levels of qualification required for social welfare staff by type of activity.

A handbook on services for people with disabilities (the eHandbook on Disability Services) has been published on-line for people working in the field. Its purpose is to improve nationwide

equality in services for people with disabilities, to improve service quality and to promote a new approach to disability policy, giving people with disabilities more right to self-determination and better opportunities for participation. The handbook contains, inter alia, a description of the services available, the procedures for accessing these services, links to the relevant legislation, a list of contacts and various links to other sources of information on the subject.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 14§1 of the Charter.

Article 14 - Right to benefit from social services

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

The Committee takes note of the information contained in the report submitted by Finland and in the supplementary information provided by the Government.

The municipalities have the primary role in the provision of social services (in accordance with Section 13 of the Social Welfare Act (710/1982)). They may delegate this task to private bodies or non-governmental organisations under Section 2(3) of the Local Government Act (365/1995). According to the report, the role of private social service providers has grown considerably, so that they now account for 30% of all service-provision.

Since the report provides little updated information with regard to non-public providers of social services, the Committee asks that the next report provide an up-to-date description of current legislation and practice in this regard. In particular, the Committee asks for pertinent figures, statistics or any other relevant information to demonstrate the participation of the voluntary sector to the provision of social services, as well as the effective access of individuals to these services. In addition, since the Government does not provide the supplementary information requested, the Committee also wishes to know whether and how the Government:

- helps voluntary organisations working in the social services field and, in particular, whether they are entitled to financial assistance or tax benefits;
- ensures that services managed by the private sector are effective and are accessible on an equal footing to all, without discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion; and
- encourages individuals and organisations to play a part in maintaining services, for example by taking action to strengthen the dialogue with civil society in areas of welfare policy which affect the social welfare services.

The Committee underlines that if the necessary information requested above is not provided in the next report there will be nothing to show that Finland is in conformity with the Charter.

In addition, the Committee asks for the next report to explain what the procedures are and what conditions voluntary organisations have to satisfy before they can offer their services to users and, in particular, whether a system of authorisation or accreditation has been set up.

The report states that the supervision of social welfare administration has been centralised, since the beginning of 2010, under the National Supervisory Authority for Welfare and Health (Valvira) (see conclusion under Article 14§1 of the Charter). Since the report does not elaborate on this point, the Committee wishes to know whether this supervision applies solely to public social services or whether it also applies to social services provided by private operators.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 14§2 of the Charter.

Article 23 - Right of the elderly to social protection

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

Legislative framework

In its previous conclusion (Conclusions 2009) the Committee considered that the interplay of the main anti-discrimination provisions laid down in the Constitution, the Non-Discrimination Act and the Penal Code, prohibited age-discrimination on a sufficiently wide variety of grounds outside employment, namely education and the provision of services. It nevertheless recalled that the prohibition of discrimination based on age should be progressively expanded to include the areas of social security, health care and goods. The Committee notes that the report does not provide information on this. Therefore, the Committee concludes that it has not been established that there is an adequate legal framework prohibiting discrimination on grounds of age.

The Committee asked whether there exist safeguards to prevent the arbitrary deprivation of autonomous decision-making by elderly persons. It notes from the report that in 2010, the Ministry of Social Affairs and Health set up a working group to consider “the right to self-determination of social welfare and health care clients”. The preliminary proposals of the working group deal, in particular, with the issue of the use of restrictive measures in the voluntary care of persons with memory disorders, brain damage or intellectual disabilities. The Committee would like to receive more information about the follow-up of the working group’s proposals, in particular whether any new legislation was adopted and how it prevents abuse of the autonomous decision-making by elderly persons. In this respect, the Committee refers to its statement of interpretation in the General Introduction.

Adequate resources

When assessing adequacy of resources of elderly persons under Article 23, the Committee takes into account all social protection measures guaranteed to elderly persons and aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to elderly persons. These resources will then be compared with median equivalised income. However, the Committee recalls that its task is to assess not only the law, but also the compliance of practice with the obligations arising from the Charter. For this purpose, the Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

In its previous conclusion, the Committee concluded that the situation in Finland was not in conformity with Article 23 of the Charter on the ground that the level of the national pension for low-income elderly persons was manifestly inadequate.

The Committee notes from another source¹ that Finland has two pension systems: the statutory earnings-related pension scheme and the national pension scheme (including the guarantee pension, *takuueläke*). The earnings-related pension scheme provides earnings-related and insurance-based pensions, whereas the national pension scheme grants minimum pensions on the basis of residence. Together, these two pensions form the total statutory pension. They are integrated and when statutory earnings-related pension exceeds a given limit, no national pension or guarantee pension is paid. The national pension can also include a care allowance, a housing allowance and a dependent child supplement. The Committee also notes from the

Government's submissions to the Governmental Committee (Report concerning Conclusions 2009, T-SG (2011)1final) that the national pension is only a part of the minimum social security provided to elderly people. Furthermore, if the national pension or the earnings-related pension is below the minimum level of pension laid down by law, the difference is paid as guarantee pension.

According to the report, resident pensioners are eligible for a guarantee pension if their total gross pension income is less than the full amount of the guarantee pension (€714 in 2012, and about €688 in 2011). The amount of the guarantee pension is affected by any other pension income one may have from Finland or abroad. Other pension income is deducted from the full amount of the guarantee pension (€687.74).

The guarantee pension is not reduced by earnings, capital income or assets. Its amount is also not affected by the care allowance for pensioners, the housing allowance for pensioners or the informal care allowance, for which a pensioner may be eligible. However, according to the report, the amount of these allowances for pensioners is affected by many factors, and providing an estimated amount is not possible. The Committee notes from MISSOC that the amount of the pensioners' housing allowance (*eläkkeensaajan asumistuki*) is proportional to the pensioner's income and housing costs, as well as some other factors. The care allowance for pensioners is intended to help pensioners with a long-term illness or disability with their daily activities, to assist with the maintenance of their functional capacity, and to support their care and rehabilitation. According to MISSOC, the care allowance for pensioners (*eläkettä saavan hoitotuki*) is graded into three categories depending on the need of assistance: €57.55, €143.27 and €302.96 per month.

Furthermore, the State and municipal authorities offer health and social services as well as home help, residential services and institutional care. Voluntary and community-based organisations also deliver services and recreational opportunities for retirees. When a person has retired, he/she may qualify for discounts on domestic travel tickets.

The poverty threshold in Finland, defined as 50% and 40% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value, was estimated to be at respectively €909 and €728 per month in 2011. The Committee considers that the guarantee pension when combined with all relevant supplements will possibly meet the threshold. The Committee asks to be kept informed of all developments in the situation.

The Committee further notes from Eurostat that in 2011, 1% of persons aged 65 and over received income falling below 40% of median equivalised income (compared to 0.7% in 2010 and 0.8% in 2007). The Committee nevertheless asks the Government what measures are taken to address the situation of this group.

Prevention of elder abuse

The Committee notes from the report that in 2008, the Ministry of Social Affairs and Health issued "Recommendations for the prevention of interpersonal and domestic violence. Recognise, protect and act. How to guide and lead local and regional activities in social and health care services", addressed to the local and regional organisations responsible for municipal social and health care services. The municipal inspection boards will assess the implementation of these recommendations.

The Committee asks for more information about Government's actions in this area, in particular whether and how the Government evaluates the extent of the problem, 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 services for elderly people.

The Committee notes that the new Act on Private Social Welfare Services (922/2011) entered into force on 1 October 2011. The legislative reform emphasised, among other things, proactive supervision, as well as increased service providers' own responsibility for the quality of services. To ensure appropriate activities, the service providers must prepare a self-supervision plan, keep it publicly available and monitor its implementation. Furthermore, the 2011 amendments to the Act on Support for Informal Care (937/2005) provided for a possibility of organising necessary substitute care during an informal carer's leave or other temporary absence, through an agreement concluded by a municipality with a person fulfilling the requirements laid down in the Act.

According to the report, at the end of 2009, approximately 36,000 clients with memory diseases were covered by institutional social welfare and health care services, service housing and regular home care, which constitutes almost 1/4 of all clients receiving such services.

The Committee also notes from the report and another source² that in 2010 clients (aged 75 and over) of service housing with 24-hour assistance constituted 5.6% of this age population, compared to 11.9% receiving regular home care, 4.1% – support for informal care, and 4.7% – care in residential homes or long-term institutional care in health centres.

The Committee previously asked to be updated on any evaluation on the effectiveness of the system of individual service needs assessment for persons over 80 years of age. The report does not provide relevant information in this regards. The Committee reiterates its question.

On 4 December 2012, the Committee decided on the merits of the Complaints Nos. 70/2011 and 71/2011 "*The Central Association of Carers in Finland v. Finland*" and found violations of Article 23 on the grounds that:

- the legislation allows practices leading to a part of the elderly population being denied access to informal care allowances or other alternative support (Complaint 70/2011);
- insufficient regulation of fees for service housing and service housing with 24-hour assistance combined with the fact that the demand for these services exceeds supply, does not meet the requirements of Article 23 of the Charter insofar as these:
 - Create legal uncertainties to elderly persons in need of care due to diverse and complex fee policies. While municipalities may adjust the fees, there are no effective safeguards to assure that effective access to services is guaranteed to every elderly person in need of services necessitated by their condition.
 - Constitute an obstacle to the right to the provision of information about services and facilities available for elderly persons and their opportunities to make use of them as guaranteed by Article 23 of the Charter (Complaint 71/2011).

Given that these decisions were adopted outside the reference period, their follow-up cannot be carried out in this Conclusion. Consequently, the Committee asks the next report to provide full information on the implementation of legal and other relevant measures undertaken to remedy the shortcomings indicated.

According to the report, the Government supports the housing of certain groups, such as the elderly, with interest subsidies for loans taken out to finance the construction, renovation or acquisition of rental dwellings, as well as with grants up to 50% of the investment, depending on the needs (Act on Interest Subsidy for Rental Housing Loans and Right of Occupancy Housing Loans, 604/2001; Act on Subsidies for Improving the Housing Conditions of Special Groups, 1281/2004).

The Committee notes from the report that about 80% of all persons over 65 years of age are owners of their dwellings. In 2010, about 45.2% of the elderly lived in single-detached houses and 39.3% in apartments in blocks of flats. Many old multi-storey residential buildings are not equipped in lifts. However, State renovation grants are available for the installation of lifts and, on social grounds, for maintenance and renovation of homes for the elderly (Act 1184/2005). The report further states that in 2009–2011, the Government spent €330 million to finance the construction of over 11 000 new dwellings for special groups. Most of these dwellings are intended for elderly persons for the provision of service housing. Special attention is paid to monitoring the quality of housing. The Committee notes that a new programme for developing the housing for the elderly for 2012–2015 is in preparation. It wishes to be informed about the impact of this programme on the housing situation of elderly persons.

The Committee would like to receive more detailed information and statistics in order to assess the housing situation of the elderly, in particular whether the housing provided is adequate to the particular needs the elderly, and whether the supply is sufficient.

Health care

According to the report, in December 2009, the health centre hospitals had proportionally the highest number of clients with memory diseases, while the lowest percentage was recorded in specialised institutional care. The report also provides the percentage of clients with memory diseases receiving other type of care, such as regular home care (12.2%), ordinary service housing (12.5%) or service housing with 24-hour assistance (29,6).

The report states that the Draft Act on Supporting the Functional Capability of Ageing Population and on Social and Health Services for Older Persons was prepared by a steering group established by the Ministry of Social Affairs and Health. The Committee wishes to be informed about the legislative stage and the scope of this proposal.

Institutional care

The Committee notes from the report that at the end of 2010, one in eight over-65-years-olds, one in four over-75-years-olds and almost half of all over-85-years-olds were receiving regular services. These services include regular home care (home help services and home nursing), sheltered housing for elderly people, care in residential homes and long-term inpatient care in health centres. At the end of 2010, the clients receiving these services totalled some 120 000. A majority of them (103 000) were 75 years old or older. A total of 23 300 clients aged 65 or over received institutional care (in residential homes and long-term inpatient care in health centres).

In this regard the Committee previously asked (Conclusions 2009) whether the authorities considered that the capacity in institutional care met in general terms the demand for places in these structures.

As regards the monitoring of institutions, the Committee considered that the system in place in Finland at the relevant time did not guarantee a sufficient degree of independence, and asked

whether the Government envisaged establishing of an independent body with the authority to visit homes to monitor standards and check for signs of abuse and neglect.

In reply to the Committee's question the report states that as a part of implementing the national framework for high-quality services for older persons, the Ministry of Social Affairs and Health set up a working group to draft proposals for developing the structures and contents of 24-hour care. The change is to be implemented so that institutional care is not replaced by institutional-like solutions. There has been an on-going change in the long-term care service structure: the traditional institutional care has been replaced by 24-hour care given in service house -settings with 24-hour assistance. The change has enabled better physical environments (home-like) for older persons, as well as a better quality of life (with a less institution-like care culture).

In light of the Committee's decisions of 4 December 2012 on the merits of complaints "The Central Association of Carers in Finland v. Finland", Nos. 70/2011 and 71/2011 (see above), the Committee asks whether the supply of institutional facilities and alternative services for elderly persons is sufficient, whether the relevant cost of such facilities/services is affordable or assistance to the costs is available, and how the quality of such services is ensured.

Conclusion

The Committee concludes that the situation in Finland is not in conformity with Article 23 of the Charter on the grounds that:

- it has not been established that there is an adequate legal framework prohibiting discrimination on grounds of age;
- the legislation allows practices leading to a part of the elderly population being denied access to informal care allowances or other alternative support;
- insufficient regulation of fees for service housing and service housing with 24-hour assistance, combined with the fact that the demand for these services exceeds supply, does not meet the requirements of Article 23 of the Charter insofar as these:
- Create legal uncertainties to elderly persons in need of care due diverse and complex fee policies. While municipalities may adjust the fees, there are no effective safeguards to assure that effective access to services is guaranteed to every elderly person in need of services necessitated by their condition.
- Constitute an obstacle to the right to the provision of information about services and facilities available for elderly persons and their opportunities to make use of them as guaranteed by Article 23 of the Charter (Complaint 71/2011).

¹http://ec.europa.eu/employment_social/empl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Finland_en.pdf

²<http://uusi.sotkanet.fi/portal/page/portal/etusivu/hakusivu>

Article 30 - Right to be protected against poverty and social exclusion

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

The Committee refers to its statement of interpretation on Article 30 in the General Introduction to these Conclusions and invites the Government to take it into account when drawing up the next report.

Measuring poverty and social exclusion

The report contains no information as to the methodology and indicators used to measure poverty and social exclusion, or as to the respective results.

The Committee notes from another source¹ that Finland uses multiple approaches combined and compared: a comparative analysis on the extent of poverty by various measures. Finland uses three lower thresholds to assess poverty:

- 50% of the median before housing costs;
- 60% of the median held constant in real terms over several years; and
- the material deprivation for children (introduced in 2008).

All these are derived from the European Union Statistics on Income and Living Conditions (EU-SILC) and are EU Social Inclusion Indicators, but they are now part of the national portfolio of Finnish statistics.

The Committee notes from Eurostat that in 2011, 18.3% of population was at risk of poverty and social exclusion, which rate stands below the average indicator of the EU countries (23.4%).²

Approach to combating poverty and social exclusion

The report states that "The National Strategy Report on Social Protection and Social Inclusion" is based on the Europe 2020 Strategy of the European Council, one of whose main targets is the reduction of poverty and social exclusion. The Government has drawn up a strategic plan for the implementation of its programme in accordance with the Europe 2020 Strategy. The strategic plan has three priority areas:

- the reduction of poverty, inequality and social exclusion;
- the consolidation of public finances;
- the strengthening of sustainable economic growth, employment and competitiveness.

The measures by which the Government aims at preventing poverty, inequality and social exclusion have been collected together as a cross-sectoral action plan, in which the main objectives, key projects, division on responsibilities and preliminary timetables and indicators are outlined. The ministerial working group on social and health policy is responsible for the implementation of the action plan. The preparation of the implementation is coordinated by a broad-based steering group including the ministries and other stakeholders. The policy measures are monitored by the Government and the progress is assessed in annual strategy review sessions.

The action plan to combat social exclusion, poverty and health problems consists of measures aimed to tackle unemployment, poverty, people's lack of prospects and non-participation. The main areas of development are:

- improving employment and income security and
- reducing differences in income, well-being and health and promoting equality.

The latter area includes objectives such as reducing social exclusion, stopping intergenerational poverty and social exclusion, safeguarding citizens' equality and equal opportunities for participation, strengthening and reforming social welfare and health care services, and strengthening young people's inclusion and early childhood education.

The Committee notes from the report that with the aim of fighting against poverty and social exclusion, the Government has introduced several measures such as the improvement of the quality of basic education. The financial aid to students has been linked to an index. Also, regarding the most disadvantaged groups, taxation has been eased, the basic daily allowance and the labour market support for the unemployed have been improved, the income limits for housing allowance have been raised, the basic amount of social assistance has been raised by 6%, the social assistance for single parents has been improved, and the production of social rental housing now receives extra support.

In the field of pensions, some progress has been made recently. A guarantee pension was introduced in March 2011, which as a result increased the income level of poor elderly people, especially women and immigrants. Moreover, the changes made in the 2005 pension reform have had a positive influence on the length of working careers and raised the effective retirement age. The Government foresees that the introduction of a life expectancy index, effective as from 2010, will improve the sustainability of the pension system and provide incentives for prolonged working careers.

According to the report, the Government has also adopted the social partners' policy outlines on further agreed social security measures. According to the negotiating parties' own assessment, the changes will prolong working careers by slightly over one year on average. The following changes will be implemented in the pension system between 2014 and 2015: the early old-age pension (now available from the age of 62 years onwards) will be abolished, the minimum age of eligibility for the part-time pension will be raised from 60 to 61 years and the minimum age of eligibility for the unemployment path to retirement will be raised from 59 to 60 years. Furthermore, the employee's and the employer's employment pension contributions will be increased by 0.2 percentage points in both 2015 and 2016.

The report further states that in autumn 2011, the Government Institute for Economic Research carried out an estimation on the immediate effects of these reforms on the income distribution and relative poverty. A study was carried out using micro simulation models. According to the study, the changes in income security benefits and direct taxation reduced the relative poverty by 0.4 percentage points. The reforms also reduced income inequality more generally. The so-called Gini-coefficient was reduced by 0.4 percentage points. The simultaneous increase in consumption taxes had an opposite effect, but it was much smaller (an increase in the relative poverty by 0.02 percentage points and an increase in the Gini-coefficient by 0.07 percentage points).

The Committee takes note of the measures taken to reduce health disparities and long-term unemployment, prolong working careers, introduce social guarantees for young people, as well as to provide housing, especially for people with disabilities, as described in the report.

Monitoring and assessment

The Ministry of Social Affairs and Health is the responsible institution for monitoring the trends in health and welfare. The indicators used for this purpose aim at monitoring the attainment of the

strategy goals and performance management, including also the goals of the action plan to combat social exclusion, poverty and health problems. The indicators are monitored at four levels:

- social, economic and ecological sustainability;
- economic and welfare growth;
- implementation of the Government Programme, policy programmes and action plans;
- effectiveness and efficiency of social protection.

Conclusion

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

¹*Bradshaw, J. and Mayhew, E., The measurement of extreme poverty in the European Union. (European Commission and University of York, 2011)*

²http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_peps02&lang=e