



European  
Social  
Charter

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# European Social Charter

European Committee of Social Rights

Conclusions 2015

**FINLAND**

*This text may be subject to editorial revision.*



The role of the European Committee of Social Rights (the Committee) is to rule on the conformity of the situation in States Parties with the Revised European Social Charter (the Charter). The Committee adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure.

Information on the Charter, statements of interpretation, and general questions from the Committee, are reflected in the General Introduction to all Conclusions.

The following chapter concerns Finland which ratified the Charter on 21 June 2002. The deadline for submitting the 10<sup>th</sup> report was 31 October 2014 and Finland submitted it on 31 October 2014.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerns information requested by the Committee in Conclusions 2013 in respect of its conclusions of non-conformity due to a repeated lack of information<sup>1</sup>:

- Right to social security – Social security of persons moving between States (Article 12§4)
- Right of the elderly to social protection (Article 23)

The Committee adopted two conclusions of conformity.

The next report by Finland will deal with the accepted provisions of the thematic group "Employment, training and equal opportunities":

- the right to work (Article 1),
- the right to vocational guidance (Article 9),
- the right to vocational training (Article 10),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18),
- the right of men and women to equal opportunities (Article 20),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

The report should also contain information requested by the Committee in Conclusions 2014 in respect of its findings of non-conformity due to a repeated lack of information:

- Right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28)

The deadline for submitting that report was 31 October 2015.

Conclusions and reports are available at [www.coe.int/socialcharter](http://www.coe.int/socialcharter)

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<sup>1</sup>Finland also submitted a report on follow-up to decisions on the merits in collective complaints. The Committee's findings in this respect are available in a separate document.

## **Article 12 - Right to social security**

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

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Finland in response to the conclusion it had not been established that the retention of accrued benefits was guaranteed to nationals of all other States Parties (Conclusions 2013, Finland).

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 (Statement of interpretation on Article 12, Conclusions XIII-4).

The report states that Finnish legislation guarantees the retention of accrued benefits relating to work, including for nationals of non-EU States Parties to the Charter. The legislation on earnings-related pensions does not limit payment on the basis of nationality or residence. Thus, pensions are exported to all countries irrespective of the nationality of the recipient as provided for in Chapter 8, Section 112 of the Employees Pensions Act No. 395/2006. This provision expressly stipulates that pensions may be paid to the recipient's account abroad. Similarly, accrued benefits from the occupational accident and disease insurance scheme are exported to all workers irrespective of nationality and wherever the worker chooses to reside.

On this basis, the Committee considers that the situation is in conformity with the Charter as regards retention of accrued benefits.

### *Conclusion*

The Committee concludes that the situation in Finland is in conformity with Article 12§4 of the Charter with respect to the retention of accrued benefits for nationals of all other States Parties.

## **Article 23 - Right of the elderly to social protection**

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Finland in response to the conclusion that it had not been established that there is an adequate legal framework prohibiting discrimination on grounds of age (Conclusions 2013, Finland).

The Committee recalls that Article 23 requires States Parties to combat age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services (see for example Conclusions 2009, Andorra).

The Committee's previous conclusion of non-conformity was specifically based on the absence of information on the progressive expansion of the ban on age discrimination to include the areas of social security, health care and goods.

The report refers to Article 6§2 of the Finnish Constitution which expressly prohibits discrimination on the basis of age. This prohibition applies to all public functions, including the spheres of social security, health care and other provision of goods and services. This provision is also considered to be of interpretational value in relations between private parties (e.g. private companies and individuals). The Government also indicates that Chapter 11, Article 11 of the Penal Code criminalises discrimination and covers all public and private activities, including areas such as social security, health care and provision of goods and services.

The report further states that relevant prohibitions of discrimination have been laid down in various specific acts, such as the Consumer Protection Act No. 38/1978, the Status and Rights of Patients Act No. 785/1992 and the Status and Rights of Recipients of Social Welfare Act No. 812/2000.

Finally, the Committee notes that the Government has submitted a new Equal Treatment Act to Parliament on 3 April 2014. According to the Government the proposed act has a very broad scope: it would be applicable to all public and private activities, the only exceptions being activities that take place in the realm of private and family life as well as the practice of religion. The new act would expressly prohibit discrimination on a number of grounds including age. The Committee asks that the next report contain information on the implementation of the act, if adopted, especially in so far as it impinges on age discrimination outside employment.

In view of the information provided the Committee considers that the situation is in conformity with the Charter.

### *Conclusion*

The Committee concludes that the situation in Finland is in conformity with Article 23 of the Charter as regards the legal framework prohibiting discrimination on grounds of age.