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Conclusions 2011
(FINLAND)

Articles 7, 8, 16, 17, 19, 27 and 31
of the Revised Charter

This text may be subject to editorial revision.

Introduction

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

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.¹

The Revised European Social Charter was ratified by Finland on 21 June 2002. The time limit for submitting the 6th report on the application of this treaty to the Council of Europe was 31 October 2010 and Finland submitted it on 7 February 2011.

This report concerned the accepted provisions of the following articles belonging to the thematic group "Children, families and migrants":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27),
- the right to housing (Article 31).

Finland has accepted all the Articles from this group with the exception of Articles 7§6, 7§9, 8§1, 8§3, 8§5 and 19§10.

The reference period was 1 January 2005 to 31 December 2009 for Articles 7, 16 and 19 and 1 January 2003 to 31 December 2009 for Articles 8, 17, 27 and 31.

The present chapter on Finland concerns 30 situations and contains:

- 24 conclusions of conformity: Articles 7§1, 7§2, 7§3, 7§4, 7§5, 7§7, 7§8, 7§10, 8§4, 16, 17§2, 19§1, 19§2, 19§3, 19§5, 19§6, 19§7, 19§9, 19§11, 19§12, 27§1, 27§2, 31§1 and 31§2 ;
- 2 conclusions of non-conformity: Articles 8§2 and 27§3.

In respect of the other 4 situations concerning Articles 17§1, 19§4, 19§8 and 31§3, the Committee needs further information in order to assess the situation. The Government is therefore invited to provide this information in the next report on the articles in question.

The next Finnish report deals with the accepted provisions of the following articles belonging to the first 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 deadline for the report was 31 October 2011.

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

Article 7 - Right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

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

The report refers to the previous report on Article 7§1, situation which the Committee, in its previous conclusion, found to be in conformity with Article 7§1 of the Charter.

The Committee takes note of Finland's 2010 report on the implementation of ILO Convention No. 138 on Minimum Age.

In its last conclusion the Committee asked for information on surveys carried out by the Labour Inspectorate of workers aged under 15 and statistics on the illegal employment of children in this age group. The report states that occupational safety and health inspectors obtain information about young workers from the records that employers are legally obliged to keep and that there have been no statistics available on illegal work carried out by children under 15. The Committee notes also from another source¹ that "there were no reports of children engaged in work outside the parameters established by law".

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 7§1 of the Charter.

¹ U.S. Department of State website: <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136030.htm>

Article 7 - Right of children and young persons to protection

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

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

The report refers to Finland's previous report on Article 7§2, situation which the Committee, in its previous conclusion, found to be in conformity with Article 7§2 of the Charter.

In its Conclusions XVII-2, the Committee asked for up-to-date information on the number of accidents among young workers. According to the report, which provides information for the period 2000-2007, the number of occupational accidents, occupational diseases, and suspected cases of occupational diseases, regarding employees aged 0–14, varies between 4 and 11 cases per year and between 163 and 1694 cases per year for the age group of 15–19. The Committee asks what sanctions are applied to the employers in case of breach of regulations protecting young workers against employment in dangerous or unhealthy activities.

Conclusion

Pending receipt, the Committee concludes that the situation in Finland is in conformity with Article 7§2 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 3 - Prohibition of employment of children subject to compulsory education

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

Compulsory education starts at the age of 7 and ends when the basic education has been completed or 10 years after the beginning of compulsory education.

According to the Young Workers' Act (998/1993) a person may be admitted to work if he has reached the age of 15 and is not liable to compulsory school attendance. Furthermore, a person may be

admitted to work if he has reached the age of 14 years or will reach that age in the course of the calendar year and if the work in question consists of light work that is not hazardous to his health or development and does not hinder school attendance, as follows:

- for at most half of the school holidays; and
- temporarily during schoolwork or otherwise, for individual work performances of a short duration.

In its previous conclusion, the Committee asked whether its understanding that children may not work in the morning before classes and that any activity lasting more than two hours is performed on non-school days, especially on Saturdays was correct. The report states that indeed Section 4(2) of the Young Workers' Act provides that the daily working hours of a person of school age must not exceed two hours on school days.

However, the Act does not prescribe that work is permitted on school days only after school. The report holds that such a provision could be counterproductive to the protection of young workers in the case of Finland where the length of school days and the timing of lessons vary largely. Some days, pupils may have only three or four lessons, depending on the subjects chosen by each pupil. In such cases the school day may start as late as 11 or even 12 o'clock and end as late as 16 o'clock in the afternoon, when it is already dark in Finland in winter. Therefore it has been considered appropriate to permit children subject to compulsory education to work also before school lessons. The report states that in practice, however, such situations are rare.

The Department for Occupational Safety and Health observes that free paper and leaflet delivery is one of the most popular jobs for children under 15. Children under 15 work also in occupations such as in theatre and opera productions and in television series.

According to the Young Workers' Act, the employment of children under 15 is subject to a special permit granted for the employer by one of the five Regional State Administrative Agencies. The report states that in 2010, the Regional State Administrative Agency for Southern Finland processed and granted 98 special permits regarding employment of children under 14 years in light work. The applications concerned around 180 children, and a permit was granted in each case. The applicants are usually large and well-known employers, and the productions are short in duration or there are several child performers working on alternate days.

The Committee takes note of this information. It notes that the description above concerns work that is performed temporarily and not on a regular basis during the school year.

As regards work during school holidays, the Committee refers to its interpretative statement on Article 7§3 in the General Introduction. It asks the next report to indicate whether the situation in Finland complies with the principles set out in this statement. In particular, it asks whether the rest period free of work has a duration of at least two consecutive weeks during the summer holiday. It also asks what are the rest periods during the other school holidays.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 7§3 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 4 - Working time for young persons under 18

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

The report states that the regular working hours of young workers over 15 must not exceed the regular working hours of workers over 18 and engaged in the same type of activity. The total length of training

time and working hours of an apprentice in apprenticeship training as defined in the Act on Apprenticeship Training (1605/1992) must not exceed 8 hours a day or 40 hours a week.

Act No. 408/1996 specifies that during the school year, the daily working hours of a young worker of school age must not exceed 2 hours on school days and 7 hours on other days. The total length of the school day and working hours together cannot, however, exceed 8 hours, and the weekly working hours cannot exceed 12 hours. The working hours of a child under 15 must not exceed 7 hours a day and 35 hours a week during school holidays.

Pursuant to the same act, a young worker's working hours must not exceed 9 hours a day or 48 hours a week. A young worker of 15 years or older must be granted at least 12 consecutive hours of rest in every 24 hours. Where the daily working hours of young workers exceed 4 hours 30 minutes, they must be granted a rest period of at least 30 minutes in the course of their work, during which they must be free to leave the workplace. If, under the collective agreement observed at the workplace, an exception has been made to the provision on the periods of rest laid down in the Working Hours Act, the provision concerning periods of rest can also be applied to young workers. Young workers must be granted a weekly break of at least 38 consecutive hours.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 7§4 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

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

Young workers

In its Conclusions XVII-2, the Committee concluded that the situation with respect to pay of young workers was in conformity with Article 7§5 of the Charter. The report contains no updated information on the pay of young workers and the Committee understands that there have been no changes during the reference period. The Committee asks whether this understanding is correct and that the next report provide up-dated information on the situation regarding the remuneration of young workers.

Apprentices

In its previous conclusion, the Committee found the situation not to be in conformity with Article 7§5 of the Charter on the grounds that it could not determine whether apprentices' allowances come to at least a third of the basic or minimum wage of an adult at the beginning of an apprenticeship and increase to at least two-thirds by the end.

The report states that in Finland there is no statutory minimum wage and no statistics exist on net wages, wages being subject to variable deductions. However the minimum wages are determined according to industry-specific collective agreements as ruled by the Collective Agreements Act (436/1946). The rules under this Act cover approximately three-quarters of the Finnish labour market. Aside from the industry-specific collective agreements there are the so-called generally applicable collective agreement at national level. The system of general applicability safeguards the comprehensive application of industry-specific agreements. Combined together, the system of industry-specific applicability and the system of general applicability cover over 90% of the labour market.

A collective agreement takes precedence at all times when one of the parties to the collective agreement is a national trade union. Thus, a collective agreement signed by a single employer with a national trade union always takes precedence over other contracts.

In those fields where no national generally applicable collective agreement exists and where employers are not bound by another collective agreement in accordance with the Collective

Agreements Act, the minimum wages of employees are determined according to employment contracts between the employers and the employees. Chapter 2, Section 10 of the Employment Contracts Act includes a provision for cases where no agreement has been reached on wage in an employment contract and no collective agreement is applied to the employment relationship. In such cases, the employee must be paid a normal and reasonable wage. The normality and reasonableness of the wage is assessed by courts in each individual case. In this case, the level set for the wage is evaluated according to the minimum wage level in the generally applicable collective agreement for a closely related field or the wage level applicable in the municipality. Even though the minimum wage level, in these cases, has not been fixed to a certain amount, the wage level must correspond to the ordinary, generally applicable, wage level applied to the work in question or other closely related work.

If an unreasonably low wage has been agreed in the employment contract, the terms of the employment contract can be adjusted in accordance with Chapter 10, Section 2 of the Employment Contracts Act, or it can be disregarded in respect of the remaining period of validity of the employment contract. The starting point for the assessment of the reasonableness is the above-mentioned normal wage level – either locally applicable or related to an associated collective agreement.

The provisions on minimum wages are further complemented by Chapter 47, Article 3a of the Criminal Code which includes provisions on discrimination at work. Discrimination at work takes place when discrimination places an applicant or an employee at a significantly prejudicial position by exploiting the economic position or other disadvantage, dependency, incomprehension, lack of consideration or ignorance of the applicant or the employee. The provisions on discrimination at work may become applicable if the employee is inappropriately persuaded to agree on an unreasonably low wage.

The report states that collective agreements usually prescribe that wages of students in apprenticeship training are at least 80% of the normal wage. Depending on agreement, the provisions vary so that the wage is increased to 100% after one year or that it is during the second year 85 or 90% of the normal wage, etc.

The Committee considers that the regulatory framework under collective agreements system is in conformity with Article 7§5 of the Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 7§5 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 7 - Paid annual holidays

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

The report refers to the previous report on Article 7§7, on the basis of which, the Committee found the situation to be in conformity with Article 7§7 of the Charter.

The Committee recalls that although there may have been no legislative developments, the situation in practice should be regularly monitored and the activity of the Labour Inspectorate for the reporting period, should have been provided in the report. It asks that next report provides such information.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 7§7 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 8 - Prohibition of night work

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

The report refers to Finland's previous report on Article 7§8, situation which the Committee, in its previous conclusion, found to be in conformity with Article 7§8 of the Charter.

The report states in addition that the working hours of a young worker over 15 must fall between 6 a.m. and 10 p.m. Young workers who have reached the age of 15 and are employed for training purposes in jobs approved and supervised by public authorities may, however, only be employed in a two-shift system until 12 p.m. The working hours of children under 15 years of age must fall between 8 a.m. and 8 p.m. For compelling reasons related to the organization of work, children under 15 years can, however, be employed between 6 a.m. and 8 p.m.

The Committee recalls that although there may have been no legislative developments, the situation in practice should be regularly monitored and the activity of the Labour Inspectorate for the reporting period, should have been provided in the report. It asks that next report provides such information.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 7§8 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

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

Protection against sexual exploitation

In its previous conclusion the Committee asked about the legislation of 2004 which introduced the crime of trafficking. It also asked about the implementation of the National Action Plan against trafficking.

The Committee notes that amendments to the legislation were initiated in 2010 following the ratification by Finland of the Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. It wishes to be informed about the content of these amendments (Government Bill 282/2010, submitted to the Parliament in 2010).

In 2005 the Government approved a National Plan of Action against Trafficking in Human Beings. A steering group was established to assess the plan of action and also to prepare a more detailed plan of action. The Government adopted a revised National Plan of Action against Trafficking in Human Beings on 25 June 2008. Like its predecessor, the revised plan of action is built on a human-rights-based and victim-oriented approach and aims to take the child and gender aspects more closely into account in the implementation of the planned measures. A Steering Group set up by the Ministry of the Interior for monitoring the implementation of the revised Plan of Action prepared recommendations for action to further develop the legislation and measures against human trafficking. Also the Ombudsman for Minorities, acting as the National Rapporteur against trafficking in human beings since 2009, prepared its first report on human trafficking in June 2010. The Committee wishes to be informed about the implementation of recommendations and findings.

According to the report operative cooperation between the police, the border guard, and customs, visa and immigration authorities against human trafficking should be improved and extended to involve stakeholders. Cooperation between Finland's diplomatic and consular missions and liaison officers abroad in preventing human trafficking will be extended to involve other missions and also airlines.

In its previous conclusion the Committee asked about incidence of sexual exploitation in Finland. It notes from the report that in 2000 approximately 500 child sexual abuse offences were reported to the police in the entire country, whereas the corresponding figure in the previous year was 1,079. However, compared to the year 2008 (1,333 cases) the number has decreased.

The Committee notes from ECPAT² that as a priority action Finland needs to conduct more research on trafficking of children to assess the scope of the problem. Proper systems for coordinating activities, monitoring and evaluation should be put in place and training and information should be provided to the tourism industry to ensure the implementation of the code of conduct. The Committee asks the next report to provide information on measures taken to strengthen monitoring and evaluation as well as training in the areas relating to child trafficking.

Protection against the misuse of information technologies

The Committee notes from another source that the UN-CRC Committee regrets the absence of a study into sexual abuse and sexual harassment of children in the digital media. It recommends that the State party strengthen its modalities to detect and punish perpetrators as well as adopt the necessary legal, administrative and policy measures to combat violence in the digital media. It further recommends that the State party allocate adequate resources and enhance government action and coordination in order to combat sexual exploitation of children, especially on the internet. The Committee wishes to be informed about the measures taken in this regard.

Protection from other forms of exploitation

According to the report there are no known cases concerning children trafficked for the purposes of economic exploitation.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 7§10 of the Charter.

¹ http://www.ecpat.net/EI/Csec_onlineDatabase.asp

Article 8 - Right of employed women to protection of maternity

Paragraph 2 - Illegality of dismissal

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

Prohibition of dismissal

There has been no change to the situation previously found to be in conformity with Article 8§2 (Conclusions 2007). The Committee asks whether women employed in the public sector, in particular those without a secure tenure, are afforded the same protection.

Consequences of unlawful dismissal

The Committee previously found that the situation was not in conformity with this provision on the ground that legislation made no provision for the reinstatement of women unlawfully dismissed on grounds of pregnancy or whilst on maternity leave (Conclusions 2007).

The report indicates that legislation still does not provide for the right to reinstatement in case of unlawful dismissal, even though an agreement can be struck between employer and employee to consider the dismissal null and void. The Committee considers that this is not a sufficient safeguard to fulfill the requirement of Article 8§2, and therefore that the situation is still not in conformity as no provision is made in law for the reinstatement of women unlawfully dismissed during pregnancy or maternity leave.

Conclusion

The Committee concludes that the situation in Finland is not in conformity with Article 8§2 of the Charter on the ground that no provision is made in law for the reinstatement of women unlawfully dismissed during pregnancy or maternity leave.

Article 8 - Right of employed women to protection of maternity

Paragraph 4 - Regulation of night work

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

The situation was previously found to be in conformity with Article 8§4 (Conclusions 2007). The report indicates that no change has taken place. The Committee asks whether the situation of women employed in the public sector is covered in the same manner.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 8§4 of the Charter.

Article 16 - Right of the family to social, legal and economic protection

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

As the notion of the “family” is variable, the Charter applies to every family according to the definition of this notion in domestic law. The Committee asks that the next report indicate how the “family” is defined in domestic law.

Social protection of the family

Housing for families

Finland has accepted Article 31 of the Charter on the right to housing. As all aspects of housing of families covered by Article 16 are also covered by Article 31, for states that have accepted both articles, the Committee refers to Article 31 on matters relating to the housing of families.

Childcare facilities

The Committee notes that as Finland has accepted Article 27 of the Charter, measures taken to develop and promote child day care structures are examined under that provision.

Family counselling services

Families must have access to appropriate social services, particularly when they are in difficulty. States are required in particular to set up family counselling services and services providing psychological support for children’s education. The Committee asks for up-to-date information on family counselling services to be included in the next report.

Participation of associations representing families

To ensure that families’ views are catered for when family policies are framed, the authorities must consult associations representing families. The Committee asks for information in the next report on the participation of relevant associations representing families in the framing of family policies.

Legal protection of the family

Rights and obligations of spouses

The Committee asks for up-to-date information in the next report on the system governing the rights and obligations of spouses in respect of one another and their children.

Mediation services

The Committee asks for information in the next report on access to family mediation services, whether they are free of charge, how they are distributed across the country and how effective they are.

Domestic violence against women

Between 2004 and 2007, the Ministry of Social Affairs and Health introduced an action programme geared to preventing domestic violence between partners. The aim of the programme was to improve the network of support services for victims and perpetrators of violence and to develop assistance. Regional agencies were set up. Furthermore, for the period 2006-2008, the National Council for Crime Prevention, which operates under the Ministry of Justice, devised a national intersectoral programme designed to reduce violence against women.

When adopting the 2008-2011 Governmental Action Plan on Gender Equality, the Government decided to devise a multisectoral action plan to reduce violence against women. The aim of this action plan is to combat violence proactively by changing attitudes and behavioural models, improving assistance to victims and increasing the knowledge and skills required by the authorities in preventing violence against women.

The Committee would like the next report to provide information on the results obtained by these different programmes and the action plan, and also on the services devoted to prevention, protection and psychological support for victims of domestic violence.

Of the overall cases of violence recorded by the police, some 12% concerned conjugal violence. According to 2007 statistics, 71% of attacks or assaults committed in families were against women aged 15 or over, 15% against men aged 15 or over, and 14% against children under the age of 15. In connection with serious assault and attempted homicide, 50% of the victims were women aged 15 or over, 42% men aged 15 or over and 8% children under the age of 15. Homicides linked to family violence concern one third of all homicides committed each year. According to statistics on causes of death, the number of women and men killed by their spouses has remained stable since 2000.

Economic protection of the family

Family benefits

The Committee considers that, in order to comply with Article 16, child allowances must constitute an adequate income supplement, which is the case when they represent a significant percentage of median equivalised income. According to MISSOC¹, in 2009 the monthly amount of family benefits was € 100.00 for the first child, € 110.50 for the second child, € 141.00 for the third child and € 181.50 for the fourth child. The amount for each child of a single parent is supplemented by € 46.60. The Committee notes that these amount per month correspond to 5,7%, 6,3%, 8,1% and 10,4% of monthly median equivalised income. The Committee recalls that it previously considered that the amount of benefits was sufficient. It notes that basic child allowances have risen compared with the previous reference period. Based on the information at its disposal, the Committee considers that the amount of family benefits is sufficient.

Vulnerable families

States' positive obligations under Article 16 include implementing means to ensure the economic protection of various categories of vulnerable families, including Roma families.

On 9 December 2010 the Government adopted a resolution designed to promote a national policy in favour of the Roma community. This resolution is geared to improving the inclusion of the Roma population at the local level and promoting the equality of Roma in various sectors of everyday life. The Ministry of Social Affairs and Health has set up a Group responsible for monitoring the national Roma policy in order to assess the implementation of this intersectoral policy. The first monitoring report will be submitted in 2013. The aim of this resolution is to enable Finland to pioneer the promotion of equal treatment for, and the inclusion of, Roma in Europe by the year 2017.

The Committee asks what measures are taken to ensure the economic protection of Roma families.

Equal treatment of foreign nationals and stateless persons with regard to family benefits

In its previous conclusion (Conclusions 2006), the Committee noted that, under Act No. 1573/1993 of 30 December 1993, a length of residence requirement of six months for child allowance was required. The Committee noted that the length of residence requirement applied both to nationals and nationals of other States Parties to the Charter. It considered that this length of residence was in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 16 of the Charter.

¹ European Commission publication, MISSOC, *Social protection in the Member States of the European Union, the European Economic Area and Switzerland, Situation on 1 July 2009, comparative tables* (http://ec.europa.eu/employment_social/missoc/db/public/compareTables.do)

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 1 - Assistance, education and training

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

Status of the child

The Committee notes that the situation which it has previously considered to be in conformity with the Charter has not changed. It asks under what circumstances would a child's right to know his or her origins be restricted.

Education

As regards the right to accessible and effective education, the Committee refers to its conclusion under Article 17§2.

Protection of children from ill treatment and abuse

The Committee notes that the situation which it has previously considered to be in conformity with the Charter has not changed.

Children in public care

In its previous conclusion (Conclusions 2007) the Committee noted that foster family care was opted for children whose upbringing did not require any particular professional skills. It also noted that more children were in institutional care than in foster family care.

It notes from another source⁴ that while welcoming that the Child Welfare Act provides more precise provisions, *inter alia*, for taking a child into care and urgent placement of children, and requires that alternative care is provided primarily in small and family-like units, the UN Committee of the Rights of the Child is concerned that, in practice, the number of children placed in institutions, including successive placements, is increasing, that number of foster family care placements is insufficient and that there are no unified nationwide standards establishing criteria for placements in alternative care. Besides, according to the same source, there is insufficient supervision and monitoring of alternative care facilities. The UN CRC is further concerned that children in institutions are not always integrated into mainstream education, and do not always receive the necessary mental health services.

In this connection, the Committee recalls that under Article 17 the long term care of children outside their home should take place primarily in foster families suitable for their upbringing and only if necessary in institutions. Therefore, the Committee asks what measures are taken to reduce institutionalisation of children and increase foster care in families. In the meantime it reserves its position on this point.

The Committee further recalls (Conclusions XV-2, Statement of Interpretation on Article 17§1, p.29) that any restriction or limitation of parents custodial rights should be based on criteria laid down in legislation, and should not go beyond what is necessary for the protection and best interest of the child and the rehabilitation of the family. The Committee has held that it should only be possible to take a child into custody in order to be placed outside his/her home if such a measure is based on adequate and reasonable criteria laid down in legislation. The Committee asks what are the criteria for the restriction of custody or parental rights and what is the extent of such restrictions. It also asks what are the procedural safeguards to ensure that children are removed from their families only in exceptional circumstances. It further asks whether the national law provides for a possibility to lodge an appeal against a decision to restrict parental rights, to take a child into public care or to restrict the right of access of the child's closest family.

Young offenders

The Committee notes that the report does not contain any information on this issue. It asks what is the maximum length of pre-trial detention and a prison sentence for young offenders. It also asks whether young offenders can be held with adults. In the meantime it reserves its position on this issue.

The Committee asks whether young offenders have a statutory right to education.

Conclusion

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

¹ <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.FIN.CO.4.doc>

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 2 - Free primary and secondary education - regular attendance at school

In its previous conclusion (Conclusions 2007) the Committee asked whether Roma children were generally integrated into mainstream education or attended special classes. In this connection it notes from the report that different measures are being taken to support school attendance of Roma children. The National Board of Education offers a particular form of support to municipalities who want to improve the attendance and success of Roma children in basic education. The anti-bullying campaign has also paid particular attention to Roma pupils' experience of discrimination at school.

According to the report, the national anti-discrimination campaign ("*YES – Equality is priority*"), included a qualitative study on the equality effects of transfers of pupils to special classes. The groups studied consisted of young Roma, young immigrants or young people with disabilities who had studied in special classes. One of the most important findings of the study was that the decisions on transfers to special classes had actually been made by parents and authorities, and the children and young persons themselves had had a minor role in the decision-making. Many of them did not finally have any idea of the reason for the transfer. The participants in the study considered that their parents did not have the necessary information about the effects of the transfers, and that the parents' opinions were largely based on authorities' views. The transfers to special classes had influenced the pupils' further studies and their whole future to a significant extent. The instruction in special classes often did not provide the basic knowledge necessary for further studies, and this restricted pupils' options in choosing a career.

The results of the study have been discussed at related seminars. They have been distributed in printed form to educational institutions.

According to the report, discussions with Roma indicate a change of attitudes among Roma parents towards special classes: they prefer their children to study in "normal classes". However, the proportion of Roma pupils in special classes remains higher than that of pupils of the majority population in such classes.

In 2010 the national anti-discrimination campaign funded studies on discrimination experienced by children and teenagers in different minorities. An information meeting on the results of the studies was held in December 2010. Roma children and young people were one of the minority groups studied.

According to the report, as regards Roma children, they belong to statutory education, but their attendance is low and drop-out particularly high. The number of Roma residing permanently in Finland is 10,000–12,000. The total number of Roma children at the age of compulsory education in Finland is around 1,200–1,500. According to the report, in recent years, the number of Roma drop-outs from schools has been very small, some tens of pupils. Several measures, such as the development of teaching material in Romani, the specific training of teachers, as well as methods to prevent social exclusion and drop-out, have been implemented.

The report states that in 2011 the National Board of Education will conduct a new study on the status of Roma children's basic education. The Committee wishes to be informed of the results.

As regards the integration of children with disabilities into mainstream education the Committee refers to its conclusion under Article 15.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 17§2 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 1 - Assistance and information on migration

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

Migrations trends

Until the 1990s, Finland was largely a country of emigration with a relatively small immigrant population. By the end of 2006, 121 739 foreigners were living in Finland, representing 2.3% of the population (National Institute of Statistics).

Change in policy and the legal framework

In response to increased immigration, various Finnish governments have gradually concentrated more and more on migration issues, leading to the appointment of the first Finnish Migration Minister in 2007 as well as centralization of migration issues under the Ministry of the Interior in 2008¹. In 2006, the government approved Finland's first Government Migration Policy Programme, based on Finland's need for more work-related immigration. The programme envisages simplified procedures regarding residence permits for employed persons and their family members. The Aliens Act, completely renewed in 2004, replaced the act of 1991. The purpose of the Aliens Act is to promote managed immigration and provision of international protection with respect for human rights and basic rights and in consideration of international agreements.

Services and information for migrant workers

The website of the Finnish Immigration Service (Ministry of the Interior) provides information on immigration principles and practices applied in Finland. The information provided refer to residence permits, citizenship, responsibilities of different Finnish institutions dealing with immigration, employment, travel documents, entrepreneurship, etc. EURES Finland offers information about job vacancies, living and working conditions and the regional labour markets in the country and at the EU level. Other information are available on the website of the Ministry of Employment and the Economy which is responsible for the labour and immigration policy guidelines and their implementation.

In 2007 the Ministry of Employment and the Economy published online the brochure 'Working in Finland', in different languages, including English, providing exhaustive information relating to Finnish traditions and language, equality and anti-discrimination, housing, employment, vocational skills, job vacancies, labour market training, recognition of foreign qualifications, employment legislation and collective agreements, working hours, holidays and pay, self-employment, taxation, residence permits, citizenship and multiple (dual) nationality, educational opportunities, social security, integration assistance for immigrants, healthcare services, family benefits, pension systems, social assistance, etc.

The Employment and Economic Development Offices provide jobseekers and employers with a wide range of services. In this framework, EU and EEA citizens and their family members can be registered as jobseekers. Foreign citizens from outside EU/EEA area can be registered as jobseekers if they have a continuous residence permit granted for employment (A) and the permit has no employer-related restrictions. Foreigners who have been granted a permanent (P) or an EC residence permit for a third country national (P-EC) can also be registered as jobseekers. Registered jobseekers have the right to receive personal employment services and the related benefits. Unemployed jobseekers have the right to a job seeking plan or an integration plan as well as unemployment security. The Committee reiterates its question on the type of assistance and information services offered to foreign citizens with temporary residence permits (B).

Measures against misleading propaganda relating to emigration and immigration

According to the report, an administrative unit of the Ministry of the Interior co-ordinates the measures aimed at promoting equality and non-discrimination regarding different social groups. This include the training of the public authorities concerned, co-ordination of the implementation of the national system

for monitoring discrimination, implementation of equality projects co-funded by the European Union, as well as international co-operation regarding discrimination issues. The report also refers to the Discrimination Monitoring Group and the National anti-discrimination campaign 2007-2013.

The report does not contain specific information on the measures taken against misleading propaganda relating to immigration and emigration. In this respect, the Committee recalls that "Such measures should prevent the communication of misleading information to nationals leaving the country and act against false information targeted at migrants seeking to enter. To be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking. Such measures, which should be aimed at the whole population, are necessary inter alia to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease" (Conclusions XV-1, Austria). With this in mind, the Committee asks that the next report include detailed information on this point.

The Committee notes that the European Commission against Racism and Intolerance (ECRI) recommended in its third report on Finland, adopted in December 2006², that the Finnish authorities consider the adoption of legal provisions targeting specifically the use of racist and xenophobic discourse by exponents of political parties as well as to establish an independent body to investigate all allegations of misconduct by law enforcement officials and particularly allegations of racism and racial discrimination. In this respect, ECRI recommended that the Finnish authorities include a strong focus against racism, racial discrimination and prejudice in their integration policies and that they consistently present such a focus to the public as forming an integral part of Finland's integration policies. ECRI also strongly recommended that the Finnish authorities take further steps towards a demonstrable and consistent public commitment against racism and racial discrimination in all its forms, in order to set the example and promote ownership by society as a whole of the fight against these phenomena. The Committee asks to be informed on the measures taken to respond to ECRI's recommendations.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 19§1 of the Charter.

¹ Source: Website of the International Organisation for Migration

² CRI(2007)23

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 2 - Departure, journey and reception

The Committee notes from the report submitted by Finland and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§2 of the Charter.

It asks that the next report provide a full and up-to-date description of the situation.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 19§2 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 3 - Co-operation between social services of emigration and immigration States

The Committee notes from the report submitted by Finland and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§3 of the Charter.

It asks that the next report provide a full and up-to-date description of the situation.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 19§3 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 4 - Equality regarding employment, right to organise and accommodation

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

Remuneration and other employment and working conditions

Bearing in mind the information contained in the last report with respect to the legal texts prohibiting discrimination, the Committee takes note of the complementary information on the relevant provisions of the Aliens Act (301/2004), in connection with the Employment Contracts Act (55/2001). It considers that the Finnish legal framework currently represents an adequate protection for migrant workers in the areas covered by Article 19§4a. As far as the practice is concerned, it takes note of the study conducted by the Ministry of the Interior showing that 32% of all known cases of discrimination in labour relations (notably regarding decisions of dismissal, remuneration, working hours and work conditions) are based on ethnic or national origin. With this in mind, the Committee would like to be informed on the initiatives taken to eliminate discrimination with respect to remuneration, employment and working conditions.

The Committee notes that the European Commission against Racism and Intolerance (ECRI) recommended in its third report on Finland, adopted in December 2006¹, that the Finnish authorities intensify their efforts to address the underprivileged position of members of minority groups, including immigrants, in the labour market. These efforts should include a stronger focus on racial discrimination and measures to improve attitudes among employers as concerns recruitment of members of these groups. They should also include initiatives aimed at ameliorating the system for recognition of qualifications gained outside Finland and efforts to ensure that language requirements do not unnecessarily reduce the immigrants' ability to access the labour market.

The Committee asks to be informed on measures taken to remedy possible discriminations experienced by migrant workers in the labour market.

Membership of trade unions and enjoyment of the benefits of collective bargaining

The Finnish Constitution establishes that: "(...) everyone has the freedom of association. Freedom of association entails the right to form an association without a permit, to be a member or not to be a member of an association and to participate in the activities of an association. The freedom to form trade unions and to organise in order to look after other interests is likewise guaranteed (...)". More particularly, according to the report, employers must attach to applications for a residence permit for an employed person an assurance that the terms of the contract comply with the provisions in force and the relevant collective agreement or, if a collective agreement is not applied, that the terms correspond to those applied to employees in the labour market doing similar work.

The Committee asks that the next report provide further information on the implementation of the applicable legal framework and administrative regulations.

Accommodation

The Finnish Constitution sets forth that "(...) public authorities shall promote the right of everyone to housing and the opportunity to arrange their own housing (...)". According to the report, eligibility for social housing is not influenced by citizenship or time of residence. The eligibility conditions for the allowance are permanent residence and a permanent dwelling in Finland. Immigrants, too, may be eligible for housing benefits, and they are not subject to special arrangements, with the exception of asylum seekers, whose accommodation has been arranged in a different manner.

The Committee asks that the next report provide further information on the implementation of the applicable legal framework and administrative regulations.

Conclusion

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

¹ CRI(2007)23

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 5 - Equality regarding taxes and contributions

The Committee notes from the report submitted by Finland and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§5 of the Charter.

It asks that the next report provide a full and up-to-date description of the situation.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 19§5 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 6 - Family reunion

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

Scope

The Council Directive 2003/86/EC on the right to family reunification has been transposed into the Finnish legal system in 2004 through the adoption of the Aliens Act and its further amendment by the Act 380/2006. On this basis, the migrant's family members which can benefit from family reunion are the following: the spouse, unmarried children under 18 years of age, the guardian of a minor residing in Finland, a same sex registered partner or a partner in a marriage-like relationship when the persons have lived together for at least two years. The notion of family member was amended in 2006 to cover also unmarried children under 18 years of age whose parent or guardian is the spouse of the person residing in Finland.

As stated in the report, according to the Aliens Act, all foreign workers are entitled to family reunification. The family members are granted a residence permit for the same period as the foreign worker.

The right to family reunification does not depend on the status of the worker's residence permit or length of stay or the type of his or her work. The same principle applies to citizens of the European Union. In 2005–2009, nearly 6,000 residence permits were granted to family members of foreign workers. During the same period, nearly 600 applicants received a negative decision. This means that

the great majority, over 90% of all applicants, received a positive decision as a family member of a foreign worker.

Conditions governing family reunion

Section 39 of the Aliens Act set forth that the 'Issuing a residence permit requires that the alien has secure means of support unless otherwise provided in this Act. In individual cases, an exemption may be made from the requirement for means of support if there are exceptionally weighty reasons for such an exemption or if the exemption is in the best interest of the child. The requirement for means of support is not applicable to cases where a residence permit is issued under Chapter 6 (International protection), unless otherwise provided in Section 114(4). The latter establishes that the issuing a residence permit to family members of beneficiaries of international or temporary protection does not require that the alien have secure means of support if the family was formed before the sponsor entered Finland.

In this respect, in its previous Conclusion (2006), the Committee acknowledged that a regular and stable level of resources can be considered a requirement for family reunion so that the migrant worker will be able to support his family. It noted that such a requirement is reflected in the legislation of many countries. This being said, the Committee considered that the level of resources required should not be so restrictive as to prevent any family reunion. With this in mind, it reiterated its request for explanations on this point, and in particular whether a migrant worker receiving welfare support is prevented from exercising the right to family reunion. Since it has not yet received a reply to its request, the Committee reiterates its question and asks that the next report provide precisions on the criteria applied for determining whether the means are sufficient for the purposes of family reunification.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 19§6 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 7 - Equality regarding legal proceedings

The Committee notes from the report submitted by Finland and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§7 of the Charter. It refers to its interpretive statement in the General introduction and asks that the next report provide a full and up-to-date description of the situation. In particular whether domestic legislation makes provision for migrant workers who are involved in legal or administrative proceedings and who do not have counsel of their own choosing to be advised to appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter, and whether migrant workers may have the free assistance of an interpreter if they cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial hearings.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Finland is in conformity with Article 19§7 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 8 - Guarantees concerning deportation

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

The Committee recalls that it had previously found the situation not to be in conformity with the Charter on the grounds that a migrant worker's minor children who have settled on Finnish territory as a result of family reunion may be expelled when the migrant worker is expelled; when the person expelled is the sole custodian of a child under the age of 18 years, the expulsion order usually applies to the child as well. The Committee has repeatedly stated that the rule in this area should be to disconnect the expulsion of the migrant worker from that of the rest of the family members. An expulsion order is an individual measure which in principle should solely affect the migrant worker who has endangered national security or offended against public interest or morality. When a court imposes such a drastic measure on an individual, this should not automatically bear consequences on the other family members, even when the person to be expelled is the sole custodian of a child under 18 years.

The Government maintains that this is in the child's best interest and underlines that all facts of relevance are taken into account when assessing the need of expulsion of the child, such as the length of the child's residence in Finland and other conditions and ties to the country. The report provides no pertinent information on how the best interests of the child are determined. The Committee considers that the best interests of the child should primarily be determined by the parents. It asks in this respect what weight is given to the view of the parent to be expelled as to the best interests of the child, and to the views of the child himself. Further it wishes to know who makes the decision on where the best interests of the child lie? Is it a court or other body which is competent in matters relating to children?

Conclusion

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

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 9 - Transfer of earnings and savings

The Committee notes from the report submitted by Finland and all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§9 of the Charter. It asks that the next report provide a full and up-to-date description of the situation.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Finland is in conformity with Article 19§9 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 11 - Teaching language of host State

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

The Committee previously considered that the legislation and practice described in the report to be in conformity with Article 19§11, in particular as regards the children of migrant workers in the school system. The Committee however requested information on programs for learning the host language also exists for other family members of the migrant worker, and for the migrant worker himself.

According to the report one of the priorities in liberal adult education in Finland is to increase the education and training intended for immigrants. The development of studies designed for immigrants has been supported by grants and training of educational staff. Since 2007, all educational institutions providing liberal adult education have been paid grants so that they may abolish or cut study fees for target groups. Such target groups include immigrants. In 2009, the study voucher grants paid to educational institutions amounted to a total of approximately EUR 2.7 million, and approximately

20,000 persons could be exempted from study fees or be charged reduced fees. of this group, the percentage of immigrants was approximately 15–20%. Immigrants are guided to acquire an integration plan, if they are unemployed job-seekers or recipients of living allowance. If necessary, the integration plans include integration training (incl. language courses).

The Committee asks the next report to provide further information, namely the proportion of migrant workers not speaking Finnish, the total number following language classes, as well as information on waiting times for access to classes if any. It also asks whether there are courses which are free of charge.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Finland is in conformity with Article 19§11 of the Charter

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 12 - Teaching mother tongue of migrant

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

The Committee previous found the situation to be in conformity with Revised Charter. State subsidies are paid for the teaching, *inter alia*, of immigrants' own native languages, as a supplement to basic education. A minimum of four students are necessary for a group to be arranged. Approximately 80 % of immigrant pupils are at present taught their own native languages (covering a range of 50 different languages).

The current report adds that remedial teaching may be provided also in the pupil's mother tongue.

The State budget proposal for 2010 increased support for the the teaching of mother tongue, Finnish or Swedish as the second language and other subjects to pupils speaking foreign languages. The allocated sum was EUR 12 million.

In addition, the Decree on the Financing of Education and Culture (1766/2009), which took effect at the beginning of 2010, lays down the criteria for granting state subsidies for supplementary instruction of pupils speaking foreign languages, Sámi or Roma, in basic education and general upper secondary education.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 19§12 of the Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 1 - Participation in working life

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

Employment, vocational guidance and training

In its previous conclusion, the Committee noted that when employees required special skills for the performance of their job, guidance and training would be provided by the employer to allow the employee to adapt to any changes (Conclusions 2007). The current report states that a study carried out in 2009 on Family Leave and Gender Equality in Working Life has shown that employees returning from family leave are primarily assisted by their colleagues in adapting to changes. Only around one fifth of mothers returning to their former work were trained by employers, the others being guided by colleagues or orienting themselves to the changes independently. Training by employers is more common in large organisations and less frequent in the State sector.

According to the report, information, counselling and guidance services for adults have been developed during the reference period. The target group are adults whom attend education (whether they are employed or unemployed), as well as services for companies aimed at the development of their staff. The Ministry of Education and Culture has set up a group to draft a proposal on lifelong guidance. The Committee also notes from another source, that there has been a considerable amount of investment in new labour market policies. In 2005, a labour market reform introduced more individualised employment services and emphasised guidance and counselling¹.

It asks the next report to clarify whether there exist specific placement, counselling, or training programmes for workers with family responsibilities, or whether this category of workers fall under the general employment services mentioned above.

Working conditions, social security

The Committee recalls from previous information that parents may make use of different working time arrangements such as part-time work or telework (Conclusions 2007). The report indicates that when the parents share the care responsibilities they can agree to part-time work for a period during which they take turns in caring for the child. Work is considered part-time when the working hours and pay amount to 40-60% of the full-time working hours and pay.

The Committee notes from another source² that there is no negative influence on social security rights and benefits, including health care, during periods of parental/childcare leave.

The report states that pension entitlement is calculated on the basis of the income which constitutes a benefit for any unpaid period of leave. The income forming the basis of benefits during an unpaid period of leave is a percentage of the earnings from the year during which the benefit is paid, which varies depending on the benefit (for example, 117% of the earnings under the Health Insurance Act, 75% of the earnings under the Act on Job Alternation Leave, etc).

Child day care services and other childcare arrangements

In its previous conclusion (Conclusions 2007), the Committee already noted that every child under school age had the right to municipal day care. The fee being determined according to the size and income of the family, with the lowest-income families being exempt of charges. When parents opted for private day care they were eligible for a day care allowance.

The report explains that day care incorporates educational features (known as the 'educare model'), and that municipalities should offer day care should in the child's mother tongue if it is one of the official languages of Finland, i.e., Finnish, Swedish or Sami.

The staff-child ratio in day care is regulated by legislation, and so are the qualifications required of the staff. The Committee asks the next report to provide information on how standards of day care are monitored in practice.

Finally, the Committee notes that pursuant to the Employment Contracts Act employees have a right to temporary absence from work on grounds of urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable. The Act does not specify the number of days of absence, but given its nature the absence must be short (temporary). Employers are not obliged to pay remuneration for the period of absence.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation is in conformity with Article 27§1 of the Charter.

¹ *Flexicurity and industrial relations, Eironline*

² *European Trade Union Institute (ETUI), Analysis of the implementation of the parental leave directive in the EU member states, by Stefan Clauwaert and Sabine Harger*

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 2 - Parental leave

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

The Committee recalls that the focus of Article 27§2 are parental leave arrangements which are distinct from maternity leave and come into play after the latter. National regulations related to maternity or paternity leave fall under the scope of Article 8§1 and are examined under that provision.

The Committee recalls that Article 27§2 requires States to provide the possibility for either parent to obtain parental leave. Consultations between social partners throughout Europe show that an important element for the reconciliation of professional, private and family life are parental leave arrangements for taking care of a child. Whilst recognising that the duration and conditions of parental leave should be determined by States Parties, the Committee considers important that national regulations should entitle men and women to an *individual right* to parental leave on the grounds of the birth or adoption of a child. With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent.

In its previous conclusions, the Committee noted that maternity leave is followed by a 158 working days' parental leave, which can be used by the mother or the father according to their choice. There is also the possibility for parents to take subsequent unpaid care leave until the child reaches the age of three years. A child care benefit is payable for this period to families which choose not to place their child in municipal day care (Conclusions 2007).

As from 1 August 2006, the right to temporary child-care leave has been extended to non-custodial parents. In order to facilitate the reconciliation between work and family for parents of children with disabilities or long-term illnesses, the right to partial child-care leave has also been extended until the time when the child in need of special care and treatment reaches the age of 18.

The Committee notes that in 2009 the minimum amount of parental allowance was raised from € 15.20 to € 22.04 per day. It recalls in this respect that remuneration of parental leave (be it continuation of pay or via social assistance/social security benefits) plays a vital role in the take up of childcare leave, in particular for fathers or lone parents.

The report confirms that rules on parental leave apply to all categories of workers, including part-time workers.

It also states that pursuant to the Employment Contracts Act, employees are entitled to return to their previous job at the end of the leave. If this is not possible, they must be offered equivalent work in accordance with their employment contract.

Conclusion

The Committee concludes that the situation in Finland is in conformity with Article 27§2 of the Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 3 - Illegality of dismissal on the ground of family responsibilities

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

Protection against dismissal

The Committee recalls that legislation protects employees against dismissal on the grounds of applying for, or taking, a family leave. If the employer terminates the contract during family leave, the dismissal is considered unlawful unless the employer can provide evidence that it was based on valid grounds (Conclusions 2007).

The Committee asks if the protection against dismissal applies in connection with family leave in respect of children as well as other members of the immediate family (elderly parents, for example) that require care.

Effective remedies

In its previous conclusion the Committee concluded that the situation in Finland was not in conformity with Article 27§3 of the Charter on the ground that legislation made no provision for the reinstatement of workers unlawfully dismissed on grounds of their family responsibilities (Conclusions 2007).

The Committee recalls that under Article 27§3 of the Charter courts or other competent bodies should be able to order reinstatement of an employee unlawfully dismissed, or in cases when the employee prefers not to continue or re-enter employment, order compensation that is sufficient both to deter the employer and proportionate to the damage suffered by the victim. When compensation is granted it should not be subject to pre-defined upper limits, as this may preclude damages from being awarded which are commensurate with the actual loss suffered and not sufficiently dissuasive (Conclusions 2005, Estonia).

There has been no change to the situation in terms of law or practice on the question of reinstatement. The Committee notes from the information submitted by the representative of Finland to the Governmental Committee (Detailed Report concerning Conclusions 2007) that at the time of preparation of the Employment Contracts Act there was consensus on the fact that restoring or continuing an employment relationship based on a court decision was out of the question. This is considered not to work given the strong personal features involved in an employment relationship. The situation therefore continues to be not in conformity with the Charter in this respect.

The report describes the avenues of redress that a victim of an unlawful dismissal may pursue. This may be compensation under the Employment Contracts Act (between 3 and 24 months' pay), under the Non-Discrimination Act (a maximum of € 15,000) or the Act on Equality between Women and Men (unlimited compensation). These options do not exclude each other. The Committee asks whether the different types of compensation are awarded by the same courts, and how long it takes on average for courts to award compensation.

Conclusion

The Committee concludes that the situation in Finland is not in conformity with Article 27§3 of the Charter on the ground that legislation makes no provision for the reinstatement of workers unlawfully dismissed on grounds of their family responsibilities.

Article 31 - Right to housing

Paragraph 1 - Adequate housing

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

It recalls that its previous conclusion concerning Article 31§1 (Conclusions 2007) was deferred pending receipt of some clarifications with regard to the criteria for adequate housing and further information on legal protection.

Criteria for adequate housing

The Committee refers to its Conclusions 2007 for a description of the criteria for adequate housing in Finland. It recalls that these met the requirements of Article 31§1, however it was not clear whether the criteria applied to both rented and owner-occupied dwellings. Since the report clarifies that this is indeed the case as the Land Use and Building Act (132/1999), as well as the national building standards, apply to all constructions, the Committee considers that the criteria are adequate.

The Committee notes that in 2008, housing was supported by a total of EUR 2,160 million. Of this sum, 47% consisted of housing allowances, 13% of production subsidies and grants, and 40 % of interest deductions in taxation.

The Committee further notes from the report that during the reference period dwellings were well-equipped: in 2008, 98.1% of all housing had drains, 98.3% running water, 96.5% indoor WC, 93.4% central heating, and 96.8% hot water. In 2008 all housing had washing facilities and nearly a half of all housing had a private sauna.

The report also points out that statistics show that the share of people living in overcrowded housing has decreased from 10% of all dwellings in 2005 to 9.1% in 2008. The Committee recalls that in its previous conclusion it had noted that according to Finnish legislation a dwelling is considered overcrowded when there is more than one person living per room including the kitchen.

The Committee asks for the next report to provide more details in this respect, including whether there is case law on inadequate housing conditions due to overcrowding.

Responsibility for adequate housing

The Committee refers to its Conclusion 2007 for a description of the bodies and mechanisms monitoring the housing stock and the sanctions foreseen where standards of adequate housing are not applied. It recalls that it previously requested whether these mechanisms and sanctions also apply to the control of exposure to lead and asbestos.

In reply, the report clarifies that the Health Protection Act (763/1994) also applies to situations where residential buildings have been exposed to these substances. Authorities may order restoration under penalty of a fine. If a building has a defect that causes detriment to the health of its residents or users, the municipal health inspector may order the defect to be corrected. This also applies to the control of exposure to lead and asbestos.

Legal protection

The Committee recalls that in its Conclusion 2007 it asked how the right to adequate housing is legally protected in Finland. In particular, it asked to what extent judicial and non-judicial remedies are available, including in case of excessive waiting-time for access to housing.

In reply, the report indicates that according to the Constitution of Finland everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.

The Committee recalls that the effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers and tenants must have access to

affordable and impartial legal and non-legal remedies. Any appeal procedure must be effective (Conclusions 2003, Sweden).

The Committee requests that the next report include a more detailed reply outlining the procedural safeguards available and referring also to any existing case law concerning access to adequate housing. The Committee underlines that should the next report not provide such information, there will be nothing to establish that the situation in Finland is in conformity with Article 31§1 of the Charter as concerns legal protection with respect to access to adequate housing.

Measures in favour of vulnerable groups

The Committee notes from the report that improvements of the housing conditions of special groups may be subsidised by State funds, as prescribed by the Act on grants for repairing dwellings or improving their energy economy and health standard (1184/2005, amended by Act 1059/2008). Under this Act, elderly persons and persons with disabilities have the right to repair grants for their dwellings. An applicant is eligible for a repair grant if his or her income does not exceed the limit set in the legislation and he or she does not have sufficient own funds for paying the necessary repairs without help from society.

In its Conclusions 2006, the Committee drew particular attention on the situation of Roma and Travellers and “asked for national reports to provide comprehensive information on any measures introduced to take account of the fact that certain groups of the population, such as nomads, are particularly vulnerable and to secure for them the effective enjoyment of the rights enshrined in the Charter.” Furthermore, the Committee has held that as a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority. They therefore require special protection. Special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases, not only for the purpose of safeguarding the interests of the minorities themselves but to preserve cultural diversity of value to the whole community (Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40).

In this respect, the report indicates that funding has been granted for both local and nation-wide anti-discrimination campaigns and events, which Roma themselves have organised and planned jointly with representatives of other minorities. Moreover, attention has been paid to applications of Roma people for state-subsidized housing, features of Roma culture, and equality aspects in the training and information directed at municipal housing authorities and owners of non-profit (state subsidized) housing.

The report also highlights that the Ministry of the Environment, the Housing Finance and Development Centre and the Advisory Board on Romani Affairs have encouraged problem solving at local level in municipalities. According to the report, the number of complaints made to the Housing Finance and Development Centre by Roma people has declined considerably. However, the report also points out that the Ombudsman for Minorities has frequently been contacted by Roma applicants especially regarding housing.

In this regard, the Committee notes from other sources¹ that during the reference period the Ombudsman for Minorities referred a case to the National Discrimination Tribunal concerning discrimination against a homeless Roma family having applied for an apartment from the municipality of Himanka. The Tribunal held that the municipality treated the Roma family less favorably than applicants belonging to the majority of the population. To enforce compliance with its decision, the Tribunal imposed a conditional fine of EUR 4,000 on the municipality. The same Tribunal also imposed a conditional fine of EUR 2,000 to a property company in the city of Raahe that agreed to rent an apartment to a Roma applicant only on condition that the department of Social Services of the city act as a guarantor for the lease. The Tribunal found that this amounted to discrimination on the ground of ethnic origin.

The Committee requests that the next report contain detailed information, including figures, on the effective access of the Roma to adequate housing. Meanwhile, it reserves its position in this regard.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 31§1 of the Charter.

¹ FRA, *Comparative report on "Housing conditions of Roma and travellers in the EU"*, October 2009, pp. 22-25 and information on the ERRC webpage (<http://www.errc.org>) available when searching under "Finland" as a country and "housing" as a theme.

Article 31 - Right to housing

Paragraph 2 - Reduction of homelessness

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

It is recalled that in its previous conclusion (Conclusions 2007), the Committee found the situation to be in conformity with Article 31§2 pending receipt of more detailed information concerning various aspects of the provision (see below). This conclusion will therefore only consider recent developments and the additional information provided in reply to the Committee's requests.

Preventing homelessness

The Committee refers to its previous conclusion (Conclusions 2007) for a description of the steps taken and planned to prevent homelessness.

The Committee notes that during the reference period focus has been on reduction and prevention of long-term homelessness. The report infact highlights that "estimates suggest that around a third of all homeless people are long-term homeless persons, whose homelessness has been prolonged or threatens to be prolonged due to social and/or health problems." Thus, in February 2008 the Government approved a Programme to Reduce Long-Term Homelessness with the central objective of halving long-term homelessness over the period 2008 to 2011. The Government statement accompanying the new programme asserted : "The programme is structured around the 'Housing First' principle. Solutions to social and health problems cannot be a condition for organising accommodation: on the contrary, accommodation is a requirement which also allows other problems of people who have been homeless to be solved. Having somewhere to live makes it possible to strengthen life management skills and is conducive to purposeful activity."¹

The Committee has taken note of the detailed information concerning the aim of the above-mentioned programme, the main stakeholders involved and the measures taken for its implementation. It has also noted that the programme includes an earmarked grant for increases in personnel needed to produce support services, enabling the implementation of approved programme projects. Additionally, projects undertaken as the cities own or outsourced services receive state funds to the maximum amount of 50% of salary costs.

The Committee further notes from other sources ² that the quantitative target of this programme (i.e. to halve the homelessness figures by 2011 and to place 1,250 homeless people in either supported housing or service housing) was not only achieved but exceeded and that the "Housing first" principle has been recommended as an advanced example of how to tackle homelessness. ³

In view of the foregoing, the Committee considers that Finland continues to be committed to tackling homelessness in compliance with Article 31§2 of the Charter.

The Committee has noted that the objective of the second phase of the programme is the elimination of long-term homelessness by 2015. It therefore asks that the next report contain up-to date information on further developments and results in this regard.

Forced eviction

The Committee refers to its previous conclusion (Conclusions 2007) for a description of the rules governing the procedures of eviction. It recalls that it considered that certain elements of the Finnish system on evictions (prolonging of the date for removal, support to find alternative solutions by municipal authorities) are in conformity with respect to the principles laid down by it under Article 31§2. However, it asked for additional information on:

- legal aid;
- the number of judicial decisions on forced eviction;
- compensation for illegal evictions.

As to legal aid, the report refers to the Legal Aid Act (257/2002) which provides that legal aid is intended to give individuals the opportunity to obtain assistance for legal matters fully or partially at the expense of the State if a person cannot afford to cover its costs. Legal aid may certainly be given in cases of rent arrears, notice and eviction. Legal aid is granted on the basis of the applicant's income, expenditures, wealth and maintenance liability. The recipient of legal aid is to pay a certain percentage of the fee of the attorney, which depends on the monthly available means of the applicant.

As to the number of judicial decisions on forced eviction, the report indicates that the number of eviction applications in enforcement offices were 7,510 in 2009. Out of these 1,409 were carried out.

As to compensation for illegal evictions, the Committee notes the numerous cases in which a tenant is entitled to compensation from the lessor for the inconvenience caused by removal. The Committee notes from another source⁴ that, for example, a district court in Kemi-Torino ordered the municipality of Kolari to provide compensation to a Romani family (EUR 3,000 to the single mother and EUR 1,500 to each of her two children) whose housing application was ignored due to discriminatory practice. Moreover, seven employees of the municipality were fined after the ruling.

In the light of the clarifications brought by the report to its questions, the Committee considers that the legal protection available in case of evictions is in conformity with the requirements of Article 31§2 of the Charter.

The Committee refers to its questions under Article 31§1 as regards measures taken to guarantee equality of treatment in the enjoyment of the right to housing of Roma. It further asks that the next report contain more details as to the number of evictions concerning Roma families and the number of cases brought for lack of alternative accommodation offered or compensation awarded.

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution. Moreover, to ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to water and heating and sufficient lighting. Another basic requirement is the security of the immediate surroundings (*Defence for Children International (DCI) v. the Netherlands*, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 62).

Since the right to shelter is closely connected to the right to life and is crucial for the respect of every person's human dignity, under Article 31§2 of the Charter, States Parties are required to provide adequate shelter also to children unlawfully present in their territory for as long as they are in their jurisdiction. (*DCI v. the Netherlands*, §§ 47 and 64).

The temporary provision of shelter, however adequate, cannot however be considered a lasting solution.

- As regards, persons lawfully resident or regularly working within the territory of the Party concerned accommodated in emergency shelters, they must, within a reasonable time, be

offered either long-term accommodation suited to their circumstances or housing of an adequate standard as provided by Article 31§1.

- As regards persons unlawfully present within the territory, since no alternative accommodation may be required by States for them, eviction from shelter should be banned as it would place the persons concerned, particularly children, in a situation of extreme helplessness which is contrary to the respect for their human dignity (DCI v. the Netherlands, § 63).

The Committee asks for the next report to clarify whether:

- shelters/emergency accommodation satisfy security requirements (including in the immediate surroundings) and health and hygiene standards (in particular whether they are equipped with basic amenities such as access to water and heating and sufficient lighting);
- shelter/emergency accommodation is provided regardless of residence status;
- the law prohibits eviction from shelters or emergency accommodation.

Pending receipt of this information, the Committee reserves its position in this respect.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Finland is in conformity with Article 31§2 of the Charter.

¹ “The Finnish Homelessness Strategy : From a ‘Staircase’ Model to a ‘Housing First’ Approach to Tackling Long-Term Homelessness”, published in the *European Journal of Homelessness - Volume 3, December 2009*.

² “Finland: target of halving long-term homelessness reached”, 31/3/2011, FEANTSA Flash Newsletter available at <http://www.feantsa.org> and “Finland 2010: The Finnish National Programme to reduce long-term homelessness”, *Synthesis Report by the Association for Innovative Social research and Social Planning prepared on behalf of the European Commission, published at www.peer-review-social-inclusion.eu*

³ *Synthesis Report quoted above published at www.peer-review-social-inclusion.eu*.

⁴ Information on the ERRC webpage (<http://www.errc.org>) available when searching under “Finland” as a country and “housing” as a theme.

Article 31 - Right to housing

Paragraph 3 - Affordable housing

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

It is recalled that in its previous conclusion (Conclusions 2007), the Committee found the situation to be in conformity with Article 31§3 pending receipt of more detailed information concerning various aspects of the provision (see below). This conclusion will therefore only consider recent developments and the additional information provided in reply to the Committee's requests.

Social housing

The Committee refers to its previous conclusion (Conclusions 2007), for a description of the housing policy in Finland and recalls that it noted that State-subsidised rented housing corresponds to the social housing sector in Finland. It recalls that it considered this policy in conformity with respect to the principles laid down by Article 31§3. However, it asked for additional information on:

- what length of waiting period for State-subsidised rented housing is considered to be excessive;
- whether remedies exist when such cases occur.

As to the first issue, the report does not provide any answer. The Committee therefore reiterates its request.

As to the existence of remedies, the report points out that for State-subsidized rented housing there is no queuing system, as the selection criteria for tenants are the applicant's homelessness or great need for housing, low income and limited means. Applicants who have a great need for housing and limited income and means usually get a dwelling quickly.

However, the report also highlights that in November 2008 slightly over 90,000 applications for state-subsidized housing were pending. Nearly 60% of all applicants concerned single households. According to the report this situation resulted from a shortage of affordable one and two-room flats in the Helsinki region in particular. The report highlights that State and municipalities have taken a number of measures to improve the situation.

The Committee asks for the next report to include an up-dated picture of the situation in this, respect. It also requests that the next report include a description of the options available to persons wishing to complain about the length of waiting period for State-subsidised rented housing and asks for information on any relevant case law in this regard.

Pending receipt of this information, the Committee reserves its position as regards the affordability of housing.

Housing benefits

The Committee refers to its previous conclusions (Conclusions 2007) where it noted that the housing benefits policy is based on the principle that housing expenses should be reasonable in proportion to the size of the household and its disposable income.

The Committee notes from the report that during the reference period approximately 40,000–161,000 households received so-called "general" housing allowance¹ and that the payment of this allowance reduced the housing costs of recipients living in rental dwellings from ca. 60% to ca. 30% of their income.

The Committee requests that the next report indicate the number of refusals of housing benefits requests and the number of appeals lodged against such refusals and with what outcomes.

Conclusion

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

¹ *The Committee recalls that in Finland housing allowances are paid under three different systems: general housing allowance, housing allowance for pensioners, and housing supplement for students (see Conclusions 2007).*