

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**



27 February 2008

**REPORT ON THE MEETING WITH REPRESENTATIVES  
OF THE FINNISH GOVERNMENT ON PROVISIONS  
OF THE REVISED EUROPEAN SOCIAL CHARTER  
NOT ACCEPTED BY FINLAND**

Helsinki, 15-16 November 2007

## **TABLE OF CONTENTS**

### **INTRODUCTION**

- Situation of Finland on 1 January 2008 with respect to the Revised Charter
- Meeting on provisions not accepted by Finland

### **EXECUTIVE SUMMARY**

### **Appendix**

List of participants

Programme of the meeting

CEAD Synopsis

## INTRODUCTION

### Situation of Finland under the Revised Charter 1 January 2008

#### *Ratifications*

Finland ratified the Revised European Social Charter on 21/06/2002: it has accepted 88 of the 98 paragraphs of the Revised Charter.

Finland has agreed to be bound by the “ collective complaints procedure.” Finland has made a declaration enabling national NGOs to submit collective complaints.

Finland had ratified the European Social Charter and the Protocol adding new rights on 29/04/1991 (it accepted 62 of the 72 paragraphs of the Charter and the 4 paragraphs of the Additional Protocol). Finland ratified the Protocol reforming the control mechanism on 18/08/1994

On 15-16 November 2007 the European Committee of Social Rights participated in a meeting with representatives of the Finnish Government on provisions of the Revised Social Charter not accepted by Finland.

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3										
										= Accepted provisions	

#### *Reports*

Between 1993 and 2006, Finland submitted 10 reports on the application of the Charter and 2 reports on the Revised Charter. The 2<sup>nd</sup> report on non core provisions of the revised Charter accepted by Finland was submitted in October 2006.

The 3<sup>rd</sup> report will concern the provisions related to the theme ‘Employment, Training and Equal opportunities’ (Articles 1, 9, 10, 15, 18, 20, 24 and 25 of the Revised Charter). The 3<sup>rd</sup> report should be submitted before 31/10/2007.

*Collective complaints (procedure terminated)*

► *Teby ry and STTK : v. Finland (N° 10/2000)*

Violation of Article 2§4 (*elimination of risks for workers in dangerous or unhealthy occupations*) decision of the merits of 17 October 2001.

*Pending*

► *Federation of Finnish Enterprises v. Finland (no 35/2006)*

**Charter in domestic law**

Statutory ad hoc incorporation by specific implementing legislation

## Context of the meeting

The meeting in Helsinki took place in the framework of the new procedure for examination of non-accepted provisions – Article 22 of the 1961 Social Charter – agreed by the Committee of Ministers in December 2002<sup>1</sup>.

The Deputies decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

Following this decision, five years after ratification of the Revised Social Charter (and every five years thereafter), the European Committee of Social Rights reviews non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance. Experience had shown that states tended to forget that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the new procedure was therefore to require them to review the situation after five years and encourage them to accept more provisions.

In the case of Finland, the European Committee of Social Rights agreed with the Finnish authorities that it would meet, *inter alia*, representatives of various ministries in Helsinki on 15-16 November 2007.

---

<sup>1</sup> Committee of Ministers decision of 11 December 2002.

## **Executive summary**

The purpose of the meeting was to review the provisions of the Revised Social Charter not accepted by Finland with a view to securing a higher level of acceptance of provisions of the Revised Charter by Finland (identifying provisions Finland could now accept or identifying obstacles to further ratifications and possible measures to overcome these barriers).

The meeting consisted of presentations by members of the delegation on the case law relating to the provisions which have not been accepted by Finland and representatives of the competent Ministries, who gave an explanation of the national situation with regard to the provisions in question.

The exchange of view showed that the state of Finnish law and practice in fact permits acceptance of a number of additional provisions. The delegation concluded that immediate acceptance seemed possible in respect of two provisions. In respect of a further five provisions acceptance might also be possible in the medium term, and in respect of three provisions acceptance did not seem feasible at present.

It is recalled that an opinion expressed by the ECSR delegation that Finland could accept a provision does not imply that the situation will automatically be found to be in conformity with the revised Charter; it simply indicates that no major obstacles to ratification of and compliance with the provision have been found.

The Finnish authorities have to date not submitted written report or additional information on the situations.

### **Provisions which could be immediately accepted by Finland:**

Article 4§1 Right to fair remuneration

Article 19§10 Right of migrant workers – equal treatment for the self employed

### **Provisions which could be accepted by Finland in the medium term**

Article 3§2 Right to safe and health working conditions-issue of safety and health regulation

Article 3§3- Right to safe and health working conditions-provision for the enforcement of safety and health regulation by measures of supervision

Article 7§6- Right of children and young persons to protection- Time spent on vocational training

Article 7§9 - Right of children and young persons to protection-Regular medical examination

Article 8§3 - Right of employed women to maternity protection - Nursing breaks

**Provisions which could not be accepted by Finland at present**

Article 4§4 - Reasonable notice of termination of employment

Article 8§1 - Right of employed women to maternity protection - Maternity leave

Article 8§5 - Right of employed women to maternity protection-Prohibition of dangerous, unhealthy or arduous work

## **APPENDIX**

### **LIST OF PARTICIPANTS**

#### **Composition of the delegation and Government representatives**

Mr A. SWIATKOWSKI First Vice President of the European Committee of Social Rights

Ms C. KOLLONAY-LEHOCZKY, member of the European Committee of Social Rights

Mr Henrik KRISTENSEN, Secretariat of the European Social Charter

Ms N. CASEY, Secretariat of the European Social Charter

Mr Arto KOSONEN, Director, Unit for Human Rights Courts and Conventions, Ministry for Foreign Affairs

Ms Tarja KRÖGER, Ministry of Labour

Ms Riitta-Majja JOUTTIMÄKI, Ministry of Social Affairs and Health

Mr Leo SUOMAA, director Ministry of Social Affairs and Health

Ms Satu Kaskinene Ministry of Foreign Affairs.

Mr Matti MIKKOLA Professor of Labour Law University of Helsinki

## PROGRAMME

**Thursday, 15 NOVEMBER 2007**

### **MORNING: 9.00-12.30 open meeting**

- 9:00 Registration of participants
- 9:20 Words of welcome by Mr **Arto Kosonen**, Director, Unit for Human Rights Courts and Conventions
- 9:30 The Revised European Social Charter and the work of the ECSR : Mr Andrzej Swiatkowski (1st vice president of the European Committee of Social Rights)
- 10:10 The collective complaints procedure: "The first ten years" **Mrs Csilla Kollonay-Lehoczky** (member of the European Committee of Social Rights)
- 10:40 Address by **Mr Matti Mikkola** (Professor of Labour Law University of Helsinki)
- European social traditions and the Revised European Social Charter
- 11:00 **Mr Henrik Kristensen** (Deputy Executive Secretary to the European Committee of Social Rights)
- Introduction to the procedure concerning non-accepted provisions
- 11:10 Address by **Mr Arto Kosonen**:
- Situation in Finland concerning non-accepted provisions of the Revised European Social Charter
- 11:30 Discussion
- 12:30 End of the seminar

### **AFTERNOON: meeting in camera with Government**

- 14.00 **Article 4§1- Right to fair remuneration – adequate remuneration**
- Presentation of the provision and the case law by **Mr Henrik Kristensen**
- Presentation of Finnish situation by Ms Tarja KRÖGER, Ministry of Labour

**Article 4§4- Reasonable notice of termination of employment**

Presentation of the provision and the case law by **Mr Andrzej Swiatkowski**

Presentation of Finnish situation by Ms Tarja KRÖGER, Ministry of Labour

**Article 7§6- Right of children and young persons to protection- Time spent on vocational training**

**Article 7§9- Right of children and young persons to protection-Regular medical examination**

Presentation of the provision and the case law by Mrs Csilla Kollonay-Lehoczky

Presentation of Finnish situation by Ms Tarja KRÖGER, Ministry of Labour and

Ms Riitta-Maija JOUTTIMÄKI, Ministry of Social Affairs and Health

Coffee break

**Article 8§1 - Right of employed women to maternity protection - Maternity leave**

**Article 8§3 - Right of employed women to maternity protection - Nursing breaks :**

**Article 8§5 - Right of employed women to maternity protection-Prohibition of dangerous, unhealthy or arduous work**

Presentation of the provision and the case law by Mrs Csilla Kollonay-Lehoczky

Presentation of Finnish situation by Ms Tarja KRÖGER, Ministry of Labour and

Ms Riitta-Maija JOUTTIMÄKI, Ministry of Social Affairs and Health

**Article 19§10- Right of migrant workers-Equal treatment for the self employed**

Presentation of the provision and the case law by **Ms. Niamh Casey**

Presentation of Finnish situation

**Friday 16 NOVEMBER**

**9.00 Meeting with Government continued**

**Article 3§2 –Right to safe and health working conditions-issue of safety and health regulation**

**Article 3§3- Right to safe and health working conditions-provision for the enforcement of safety and health regulation by measures of supervision**

Presentation of the provision and the case law by **Mr Andrzej Swiatkowski**  
Presentation of Finnish situation by Mr Leo SUOMAA, director, Ministry of Social Affairs and Health

**10.00 Summing up and conclusions**

- Mr Henrik Kristensen
- Mr Arto Kosonen

## CEAD Synopsis

### Title Meeting on non-accepted provisions

**Description** The Committee of Ministers in December 2002 agreed on a new procedure for the examination of non accepted provisions (Article 22 under the 1961 Charter)

The Deputies decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

Following this decision, five years after ratification of the Revised Social Charter (and every five years thereafter), the European Committee of Social Rights reviews non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance. Experience has shown that states tended to forget that selective acceptance of Charter provisions was meant to be a temporary phenomenon.

10 provisions were not accepted by Finland upon its ratification of the Revised Charter in 2002.

**Status** Completed

**Date** 15/11/2007 - 16/11/2007

**Countries** CoE Members: [Finland](#)

Bilateral

### CoE Programmes (PoA and VC)



#### Programme of Activities

Chapter I – Social Cohesion

LoA  IV.1 – [Ensuring social cohesion](#)

Programme  IV.1.1 [European Social Charter](#)

Project [2006/DG2/935 Implementation of ECSR decisions and conclusions and improvement of communication on the ESC](#)

Expected Result [2 The number of ratifications of the RESC/ESC instruments and the number of provisions accepted are increased](#)

**Nature of Intervention** [Monitoring and Compliance](#)

**Activity Type** [Monitoring](#)

**Working Method** [Data Collection / Questionnaire](#)

**Location** Helsinki, Finland

**Directorate (Service)** [DG II Human Rights \(European Social Charter\)](#)

**CoE Contact** CASEY, Niamh [email](#)

#### Partners

**Web Pages** [1 http://www.coe.int/T/E/Human\\_Rights/Esc/](#)  
Documents & links

**Last Modified** 04/12/2007

**Origin/DG Remarks**

**Secretariat**

**Estimated Cost**      **Real Cost**

**Purchase Order(s)**

Activity Synopsis (ID# 18748) ([Hide Synopsis](#))

**Objective(s)** The aim of the procedure is to require States to review the situation five years after ratification of the Revised Charter and encourage them to accept more provisions.

It also represents an opportunity to raise awareness of the Revised Charter and to exchange views with the Government.

**Output/Results** The meetings were organised in cooperation with the Finnish Ministry for Foreign Affairs. The first morning was an open seminar providing participants with general information about the Charter, the collective complaints procedure and information on the background and the purpose of the visit. In the afternoon and the following morning closed meetings were held between the Council of Europe delegation and representatives of the various ministries dealing with the particular subject matter of the Charter.

On the first morning presentations were made on the rights guaranteed and the supervisory mechanisms established under the Revised Charter.

In the afternoon and on the second day, members of the ECSR and the Secretariat of the European Social Charter presented the case law of the ECSR on the provisions of the Revised Charter not accepted by Finland. Representatives of the Ministries concerned explained the existing legal framework and situation in practice in Finland regarding these provisions. This was followed by discussions whether or not the provision in question could in fact be accepted by Finland.

**Conclusions/Follow Up** It was decided that there were certain provisions that could be accepted by Finland quite rapidly, others were more a medium term goal and then for a third category ratification was not feasible in a foreseeable future.

The Finnish Government will submit a report on the non- accepted provisions of the Charter to the Secretariat and the Secretariat will subsequently put together a detailed meeting report.

**Participants** Professor Csilla Kollonay Lehoczky (member of the European Committee of Social Rights and Professor of Labour Law, Central European University, Budapest) and Professor Andrei Swiatkowski (member of the European Committee of Social Rights Professor of Labour Law University of Krakow, Poland).

**Consultants/Experts**

**CoE Secretariat** Henrik Kristensen (Deputy Executive Secretary of the European Committee of Social Rights) and Niamh Casey (Administrator, Department of the European Social Charter).

**Total No. Participants** 20

Last Modified 04/12/2007 [KRISTENSEN, Henrik](#)