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REVISED EUROPEAN SOCIAL CHARTER

REPLY TO SUPPLEMENTARY QUESTION

4th report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF FINLAND

(for the period 1 January 2003 to 31 December 2007:
Articles 3§4 and 11§1)

Report registered at the Secretariat on 26 June 2009

CYCLE 2009

SOSIAALI- JA
TERVEYSMINISTERIÖ
MINISTRY OF SOCIAL AFFAIRS
AND HEALTH, FINLAND

STM/2530/2009

26.06.2009

Régis Brillat
Council of Europe
Directorate General of Human Rights and Legal Affairs
Directorate of Monitoring
F-67075 Strasbourg Cedex
FRANCE

Ref: Your letters to the Ministry of Employment and the Economy dated June 3 & 5, 2009

THE EUROPEAN SOCIAL CHARTER; FINLAND'S REPLY TO QUESTIONS CONCERNING ARTICLES 3(4) AND 11(1)

With reference to the questions put forward by the European Committee of Social Rights in respect of the 4th report of Finland, the Ministry of Social Affairs and Health respectfully submits the following reply.

Article 3(4)

The employers are in Finland under the Occupational Health Care Act (1383/2001) responsible for organising occupational health services. Non-permanent workers and transport workers are covered by the scope of application of the said Act.

The occupational safety and health (OSH) inspectorates supervise the implementation of the Occupational Health Care Act in the context of workplace inspections. Based on the information obtained from the OSH inspectorates it can be stated in regard to the provision of occupational health services for non-permanent workers and transport workers as follows:

No exact statistical information is available on the provision of occupational health care in regard to non-permanent employees. For justified reasons, it is possible to organise occupational health services for non-permanent workers in some other way than for the other staff. In that case the provision of Chapter 2, section 2 (2) of the Employment Contracts Act has to be taken into account, according to which a non-permanent employment contract is not as such a ground for applying more disadvantageous employment conditions than in respect of permanent staff members. A recent judgment of the Supreme Court (KKO:2009:52) also states that employers may not, without justified reason, provide for their different personnel groups occupational health services of different standards.

In regard to transport companies no research or statistical information is available about the provision of occupational health care. It can be stated on the basis of the inspection operations of the OSH inspectorates that the provision of occupational health care varies by region. Within the area of the OSH Inspec-

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torate of North Finland there is no occupational health service or it does not function in about one quarter of the transport companies.
The OSH Inspectorate of Turku and Pori has reported that about 10 per cent of the transport companies in the area to some extent neglect systematic initial and periodic health examinations of employees. As regards the area of the OSH Inspectorate of Häme, 46 per cent of the transport companies that have been inspected provide occupational health care. The OSH Inspectorate of Uusimaa has expressed as their opinion that there are defects in the transport sector in organising occupational health services, but no statistical information is available in this respect.

The provision of occupational health services for both non-permanent workers and transport workers appears to improve as workplace inspections are carried out. In addition, it has been possible to increase the supervision of transport companies as part of that supervision has been transferred to police authorities.

Article 11(1)

The Finnish legislation guarantees the equal treatment of the population. The basic provision regarding this right is included in section 6 of the Constitution Act of Finland. Another important provision, besides the Constitution Act, is included in section 3 of the Act on the Status and Rights of the Patient (785/1992), which states expressly that:

"Every person who stays permanently in Finland is without discrimination entitled to health and medical care required by his state of health within the limits of those resources which are available to health care at the time in question."

Section 6 in the same Act is also important as it provides for the patient's right of self-determination.

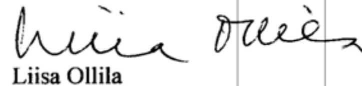
Several laws, such as the Primary Health Care Act, the Specialized Medical Care Act, the Communicable Diseases Act, the Mental Health Act, and the Occupational Health Care Act, govern the provision of health care services. Furthermore, the Services and Assistance for the Disabled Act is important from the point of view of the status of persons with disabilities. It is stated in the special legislation on health care that services shall be organised according to demand. The legislation does not assign people with disabilities or people that are socially excluded for other reasons a different status on the basis of this quality but their right to obtain health services is determined based on their real needs. The Services and Assistance for the Disabled Act guarantees that the special position of people with disabilities is taken into account; for instance according to section 7 the municipal authorities shall see to it that the services available for all municipal inhabitants are also suitable for persons with disabilities.

It can therefore be concluded from the above that at the level of legislation the rights and status of people with disabilities and socially excluded people as users of health care services are ensured appropriately. The services must be provided so that people with disabilities and others can obtain the services they need on an equal footing with other population.

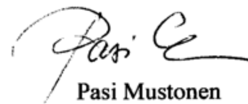
Attention is paid to the accessibility of services, in regard to both physical circumstances and access to information and communication, among others in the Land Use and Building Act and building regulations, as well as by means of organising individual services and supportive measures for people with disabilities (e.g. assistive devices, interpreter services, personal assistance). The accessibility of services has not been fully realised in all cases but the legislation, however, makes it possible to take it duly into account.

The reduction of health inequalities between population groups is a central goal in Finnish health policy and one of the key targets of the Government Policy Programme for Health Promotion and the national "Health 2015" Public Health Programme. The Health 2015 Public Health Programme aims at reducing mortality differences between population groups with different levels of education and profession by a fifth by 2015.

To promote the attainment of the objectives of the Health 2015 Programme, the National Institute for Health and Welfare (THL) and the Finnish Institute of Occupational Health (FIOH) have launched a joint project entitled "TEROKA". The aims of this project are to strengthen the knowledge base and follow-up on health inequalities, to chart and promote co-operation needed for reducing health inequalities, to encourage policies on tackling health inequalities as well as practical measures, and to advance the use of health impact assessment as a means for health and social policy.



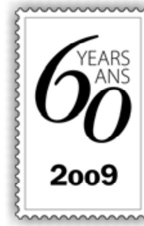
Director of International Affairs   Liisa Ollila



Senior Officer   Pasi Mustonen

ENCL.   Questions of the European Committee of Social Rights

APPENDIX



SECRETARIAT GENERAL

DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS

DIRECTORATE OF MONITORING

*HEAD OF THE DEPARTMENT
OF THE EUROPEAN SOCIAL CHARTER
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*ESC 160
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Mrs Liisa Saastamoinen
Ministry of Employment and the Economy
PO Box 32
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Finland

Strasbourg, 5 June 2009

Dear Mrs Saastamoinen,

The European Committee of Social Rights is currently examining the 4th Finnish report on the European Social Charter and has instructed me to forward to you the enclosed questions.

The Committee would be grateful if you could reply to these questions before 27 June 2009 in order to allow the information to be taken into account in Conclusions 2009.

Yours sincerely,

Régis Brillat

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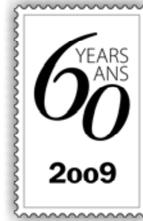
European Committee of Social Rights

Comité européen des Droits sociaux



Question in respect of the 4th report of Finland

Article 3§4:

According to the comments received from the Central Organisation of Finnish Trade Unions (SAK), which appended to the national report, 10-16% of employees – mostly employees on short-term contracts, temporary workers and workers in the transport sector – do not to have access to health services. Furthermore, the SAK considers that the quality of the services vary considerably from one unit providing healthcare to another, and alleges that the occupational safety and health authorities do not control the content of health care services.

The Committee asks whether non-permanent workers and transport workers' health at work are effectively and adequately covered by occupational health services, and what measures are taken to this effect. It also requests more information as to the control by the competent authorities of the quality of health services provided.

Article 11§1:

The Committee asks Finland to provide information allowing the Committee to assess access to health care for disadvantaged and/or marginalised persons.

In particular, it asks for information on the situation in law and in practice on access to health care for disadvantaged and/or marginalised persons, in accordance with Council of Europe Committee of Ministers Recommendation Rec(2001)12 to member states on "the adaptation of health services to the demand for health care and health care services of people in marginal situations". The Committee recalls that this question was asked in its last two conclusions (Conclusions XVII-2 et 2007) but that the following reports did not provide any response.

The Committee recalls that the health care system must be accessible to everyone (Conclusions 2007, Albania). Restrictions on the application of Article 11 may not be interpreted in such a way as to impede disadvantaged groups' exercise of their right to health. This interpretation is the logical consequence of the non-discrimination provision in Article E of the Charter, in conjunction with the substantive rights of the Charter (Conclusions XVII-2 and 2005, Statement of interpretation on Article 11§5). The Committee pointed that this approach calls for a strict interpretation of the way the personal scope of the Charter is applied in conjunction with Article 11 on the right to protection of health, particularly with its first paragraph on access to health care (Conclusions 2007, Albania).

The right of access to health care requires that the cost of health care should be borne, at least in part, by the community as a whole (Conclusions I, Statement of Interpretation on Article 11; Conclusions XV-2, Cyprus). This also requires that the cost of health care must not represent an excessively heavy burden for the individual. Steps must therefore be taken to reduce the financial burden on patients, in particular those from the most disadvantaged sections of the community (Conclusions XVII-2, Portugal).