



European Social Charter | Charte Sociale Européenne



COUNCIL OF EUROPE | CONSEIL DE L'EUROPE

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EUROPEAN SOCIAL CHARTER

Comments from the
Central Organisation of Finnish Trade Unions (SAK),
Finnish Confederation of Professionals (STTK)
and Akava, the Confederation of Unions for Professional
and Managerial Staff in Finland

on the
7th National Report

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Articles 1, 9, 10, 15, 18, 20, 24 and 25
for the period 01/01/2007 – 31/12/2010)

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Central Organisation of Finnish Trade Unions (SAK), Finnish Confederation of Professionals (STTK) and Akava, the Confederation of Unions for Professional and Managerial Staff in Finland, state the following:

General

The report contains several references to earlier periodic reports and the information provided in them. Similarly, at some points, the report refers to information provided elsewhere in the same report. The references hamper the readability of the text and should therefore be avoided. Considering the nature of periodic reports, resembling that of annual reports, the references should be replaced by writing out the earlier statements. In addition, the report refers at several points to information requested by the Committee a number of times. The Government should send the requested information to the Committee or state that the information was not available at the time of writing the report.

Comments by Article

Article 1 para. 2: The right to work

The Committee has repeatedly stated in its conclusions that the regulation of the maximum amount of compensation payable for discrimination is not in harmony with Article 1 of the Charter. The central organisations of wage and salary earners pay attention to the fact that the situation is not satisfactory in light of the EU case law, either.

By nature, payments of compensation under the Act on Equality between Women and Men, the Non-discrimination Act and the Act on Co-operation within Undertakings are comparable to damages, which, in principle, were originally excluded from unemployment security. The Financial Supervisory Authority, which supervises unemployment funds, has later issued the funds an application instruction for situations where the parties of an employment relationship have concluded a contract on payments of such nature. If an employer pays an employee monetary indemnification designated as compensation, the relevant unemployment fund must always assess the nature of the indemnification case by case. In other words, the designation of indemnification paid by an employer as compensation under the Act on Equality between Women and Men, the Non-discrimination Act or the Act on Co-operation within Undertakings does not guarantee that the indemnification will not be divided into periods when an unemployment benefit is paid. The situation is unsatisfactory, at a minimum.

Article 9: The right to vocational guidance

The action plan to develop guidance, counselling and information services for adults, financed by the European Social Fund, has made uneven progress, and it has been difficult to get an overall picture of the results of the project. So far, it has remained uncertain whether the networks of regional guidance and counselling services and the operating models developed in them will continue to exist when the ESF funding ends. However, a number of national *Opin ovi* projects, intended for guidance and counselling on adult education, have produced positive results. The NUOVE project, mentioned in the report, has been interrupted. The efforts to develop consistent electronic services functioning according to the one stop shop principle have encountered considerable difficulties.

The availability and quality of the guidance vary between educational institutions, and the number of guidance staff is too low in proportion to the number of students. The need for guidance and counselling has increased, whereas e.g. the number of employees providing guidance and counselling within the employment and industries administration has declined. A working group of the Ministry of Education and Culture has defined strategic targets for the development of guidance on lifelong learning during 2011.

Trade unions have started developing in-house guidance also by means of counselling and information based on peer support.

The rate of taking vocational degrees shows considerable differences in terms of gender and earlier education and training. The opportunities of all employee groups to participate in adult education should be improved so that the need for education and training corresponds to the qualifications required for each work in question and the required updating, expanding and deepening of know-how.

Article 10: The right to vocational training/Promotion of apprenticeship

Appropriate instructions exist for the individualisation of studies and of the taking of degrees, but putting the instructions into practice in a high-quality manner requires the providers of training to have sufficient resources.

Improved financing of training could encourage the individualisation as well as the recognition of earlier studies, in order to avoid unnecessary training.

The increased supply of apprenticeship training has increased the responsibility of employers, but they are not always capable of fulfilling the responsibility. The quality of apprenticeship training cannot be improved only by developing the quality of the providers of such training and by defining their responsibilities more precisely. A major number of the providers of apprenticeship training have not received any trainer training at all.

Apprenticeship training is mainly provided to adults. As a training channel for young persons, apprenticeship has, in some trials, been provided as part of vocational basic training in educational institutions. However, apprenticeship training has not proved as a patent solution for those young persons who dislike training in educational institutions.

Working groups with representatives of labour market organisations have been set up to develop the legislation on study leave and a specific social guarantee for youth. In addition, working groups have been set up in the context of the 2011 framework agreement between labour market organisations, for promoting the right of employees to training, their training benefits, in-house planning of training and co-operation in undertakings.

Article 15 para. 2: Promotion of employment of persons with disabilities

Question 1

In this context, the Government should also mention the Act on Social Enterprises (1351/2003). The Act provides that social enterprises must be entered in the register of such enterprises and fulfil certain conditions laid down in section 4 of the Act, which have proved to be very restrictive in practice. That is why the number of persons with disabilities employed under this Act has remained very low. A follow-up study to be completed soon shows that in 2011 only approx. 600 persons were employed under this Act and that this number includes also persons other than those with disabilities. The organisations of wage and salary earners consider it necessary to clarify the provisions of the Act so that the number can grow significantly.

Question 3

According to the table, the number of job-seekers with disabilities in 2010 was slightly lower than 100,000. Of these job-seekers, about 70,000 were covered by the employment services of the labour administration. The remaining approx. 30,000 persons were not covered by the services. According to a study conducted by Pellervo Economic Research PTT on the effectiveness and financial significance of measures to support the employment of persons with disabilities (*Vammaisten työllistymisen tukitoimien vaikuttavuus ja taloudellinen merkitys*, 2011), these people have in practice been excluded from employment services. This is problematic because the study shows that many of them are work-oriented and also capable of work. The organisations of wage and salary earners consider that this problem should be corrected by preventing the source of subsistence provided by the support, e.g. the benefits paid by the Social Insurance Institution of Finland, from excluding work-oriented job-seekers with disabilities from the services of the labour administration.

Article 20

All employees have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.

The reply of the Government completely ignores those deficiencies in the Act on Equality between Women and Men which relate to the right of employees' elected representatives to contribute to the preparation and implementation of equality plans and to obtain information in this context. Other ignored deficiencies in the Act relate to conducting pay surveys and correcting unfounded pay differentials established in the surveys.

The larger percentage of women among fixed-term employees and involuntary part-time employees is a structural problem, which has not been addressed by sufficient measures. (The same concerns such employees working as specialists.) Fathers and mothers of families with children should be given better opportunities for flexible working hours and reconciliation of work and family.

In Finland, age and sex cause strange differences between the unemployment rates of women and men respectively. The unemployment rate among women at the best working age (30-50 years) is higher than the rate among men at the same age. In contrast, the unemployment rate among young and old men is higher than the rate among women at the same age. These differences, which reflect structural discrimination, should be corrected.

The report completely ignores the deficient education of boys and men, which hampers the employment of young men and the re-employment of aged men who become unemployed because of structural changes in society.

24 Article; The right to protection in cases of termination of employment

The Committee has, in the manner appearing from the conclusions concerning Article 1, stated that the regulation of the maximum amount of compensation payable for unlawful dismissal conflicts with the Charter. In this respect the situation is unsatisfactory.

In this context, reference should also be made to section 12, subsection 3 of the Employment Contracts Act, which provides that any payable unemployment benefit is to be deducted from damages. Moreover, in light of the settled case law on damages, damages are also very easily interpreted as a financial benefit under the Unemployment Security Act, *i.e.*, as a golden handshake.