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

8 October 2012

**Case Document No.5**

**Association of Care Giving Relatives and Friends v. Finland**  
Complaint No. 70/2011

**REPLIES FROM THE ASSOCIATION  
TO ADDITIONAL QUESTIONS**

**Registered at the Secretariat on 3 October 2012**





**The Central Association of Carers in Finland  
(former Association of Care Giving Relatives and Friends)  
v. Finland**  
Complaint No. 70/2011

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

30 September 2012

**Answers of Association to the questions**

1. In Finland, municipalities are responsible for organising and financing the majority of social services regulated by social legislation. How does the statutory limitation set to the municipalities by section 3 of the Act on Planning of and State Subsidy Granted to Social and Health Care (733/1992) work in practice?

**Answer of the Association:** The Act gives the municipalities substantial freedom in choosing the ways of organising and financing many health and social services. The municipalities can organise the services by their own resources and labour force, which was the common way in the 1990's when the Act was approved in the Parliament. After the approval of the Act the municipalities have increasingly bought social and health services they are obliged to arrange from private service providers. A competition between the tenders is organised before the contract is made with the private provider. Our Association sees that the system has functioned quite well, though many competitions have been appealed and handled in the Competition Court or even in the Highest Administrative Court.

2. According to paragraph 3 of the Act on Informal Care Support (937/2005), informal care support may be granted by a municipality in a certain number of situations. The amount of care allowance is determined according to the

commitment and competence required according to the level of care. The minimum care allowance defined by law in the year 2011 was €353.62 per month. If the informal carer is temporarily and for a short time prevented from working during a burdensome transition period in care, the minimum allowance is €707.24 per month, with certain other income-related requirements.

Please confirm the type and amount of informal care that can be provided under the mentioned minimum amount of care remuneration. Is the minimum care remuneration effectively guaranteed to all informal caregivers?

**Answer of the Association:**

The minimum type of informal care can cover everything from fairly light assistance provision to 24 –hour care. The law sets only the basic framework for measurement of remuneration and it is up to the municipalities to decide what levels of remuneration they adapt.

In general the minimum care remuneration is paid to all informal caregivers with whom the contract of remuneration is made. As said earlier, the law sets only the minimum remuneration and the municipalities decide themselves other remuneration levels and fees on them. However, if the appropriation to informal care finishes in the middle of the budget year the minimum care remuneration is not effectively guaranteed at least to new appliers. The appropriation allocated to support of family care in municipal budgets may be so insufficient that it is exhausted long before the budget year is over. If this is the case the social workers have to reject the application of remuneration even in the most burdensome 24 –hour assistance informal care cases.

As the law sets only the general framework to informal care and the municipalities can decide on more exact rules, the municipalities have the opportunity of providing many types of informal care by paying only minimum fee. In some municipalities the contracts for informal care are made only in the case that the cared-for person needs 24/7 assistance and still the remuneration is only the minimum defined in the law. Due to that it is probable that in those municipalities there are many “inofficial caregivers” who provide care without support from the municipality. As far as we know in our Association, there are normally three or four levels/classes of remuneration in municipalities. The remuneration is highest in the most demanding informal caring situations and minimum remuneration is paid in the lowest level.

The other side of the question is that the minimum remuneration for informal carers is not guaranteed even if the contract for remuneration is made for the time being because the law on informal care allows (9 §) allows the

municipalities to terminate the contract without explanations after two months' term of notice. A fresh example of using this possibility by the municipality is the city of Vantaa (by population the fourth largest city of Finland and neighbouring city to Helsinki). Last summer (2012) Vantaa terminated all the informal care contracts with minimum remuneration to end by the first of November 2012. The support for informal carers will cease in hundreds of informal care situations and the carers and their care recipients have no idea what the future brings. The city has not given any responses to their inquiries.

3. According to the Association, "in some municipalities even very light care may entitle a carer to the status of informal carer. In some other municipalities even 24/7 care may not be enough for achieving the status of informal carer". Please give concrete examples and evidence of the alleged different applications of municipalities in terms of granting informal care support.

**Answer of the Association:**

The law on informal care allows the municipalities a large discretion in deciding on which type and heaviness of the care the remuneration is paid. We have no opportunity to give specific examples on municipal criterias for informal care in the 336 municipalities. We can only note that the capital Helsinki is quite flexible in granting informal care support and the city has precise criterias for the requirements to each remuneration level. The attitude of the neighbouring city of Vantaa is different : in search of savings it has terminated hundreds of contracts even though the criteria for informal care support were changed stricter in 2009 when the city also terminated hundreds of contracts. In the countryside the situation varies without any logical principles. The position of informal carers is dependent on how the local municipal politicians elected every fourth year appreciate the value of informal care.

4. According to the Association, nine municipalities have "cancelled all informal carer agreements in their area and decided on new much tighter criteria". Could you provide information on the new criteria established and on the number of informal carers that were not able to make a new agreement with the municipality? Are there municipalities in which the support has not been granted at all?

**Answer of the Association:**

Nine municipalities cancelled all informal care agreements in their area and decided on new much tighter criteria in 2009. Our association made a complaint of these municipalities to the Parliamentary Ombudsman (Add 1). The topic of the Complaint was the termination of remuneration contracts of

hundreds of informal carers in nine municipalities including big cities like Espoo and Vantaa. The reason for terminating the contracts was the aim to reach savings in the care costs. New informal care contracts were made with tighter criteria with the result that at least nine informal carers were left without remuneration. In the Complaint we expressed as our view that by cancelling the contracts the municipalities failed to fulfill their obligation as a responsible organizer of social and informal care. In neglecting their care obligations towards the inhabitants living in the municipality they had even made themselves responsible for illegal behavior in our view.

Please find enclosed the statement of the Ombudsman to the Complaint (Add 2). From the statement one can find that when new contracts were made under stricter criteria in those municipalities many informal carers were left without days-off in Espoo and there were changes in the amount of remuneration in many contracts. In Vantaa, three contracts were not renewed after the criteria was tightened and in Tuusula (a big municipality near Helsinki) contracts of 60 former informal carers were not renewed according to the stricter criteria decided in that municipality.

In the municipality of Kokemäki in western Finland, the number of informal carers was 38 before termination of contracts and only 17 after the changes were made. There were also some carers who would have been eligible under the new stricter criteria but who were eventually left out to queue for a remuneration contract, should there be extra appropriation in the future.

The Regional State Administrative Agency in their statements regarded that Espoo, Vantaa and Tuusula had obeyed the law. The municipalities are entitled to cancel the contracts and make new ones with stricter criteria. However, concerning the situation in Kokemäki, the Agency was of the opinion that the treatment of patients 65 years or older was not equal with those patients in informal care under 65 years in renewing the terminated contracts, because the procedure differed from each other. The Agency had the opinion that a service note, home service or an interval place in elderly home were not enough to cover the service needs for those in queue in waiting appropriation for the informal care in the future. The Agency was also worried how the equal treatment of informal carers in queue is guaranteed.

Still, in her statement to our Complaint the Ombudsman did not regard the conduct of the municipalities as reproachable and the situation in Kokemäki was left unfinished though The Regional State Administrative Agency had regarded the compensatory services to informal carers as deficient. The statement of the Ombudsman shows how insecure the position of informal carers is when the municipality seeks savings in costs.

5. What is the number of appeals made to the Administrative Court for refusal of informal care support? Is there any related national case law? If so, please give some information on this case law.

**Answer of the Association:** There are a lot of appeals, but the exact number is not known to us. It is very difficult to make an appeal from Administrative Court to the Highest Administrative Court in informal care cases. That is why most cases are staying in the Administrative Court level. The Administrative Courts publish their decisions quite seldom and all cases concerning informal care are handled under strict data protection. Our association learns about the decisions concerning appeals in informal care only occasionally unless the judgement is published in Edilex or Finlex. We refer to the data bases in Edilex or Finlex (unfortunately only in Finnish) where available cases concerning informal (family) care are published in the pages of the Administrative Court or Highest Administrative Court ([www.finlex.fi](http://www.finlex.fi)). There are also some collected cases in the add 3, though regrettably only in Finnish.

6. The Regional State Administrative Agency in charge of the guidance and surveillance of social welfare, may, according to the Government submissions, as a final resort, oblige the municipality to rectify the situation if the budgetary appropriation reserved for informal care by a municipality runs out during more than one year in succession. Does this situation happen in practice? If so, does the State Agency ever use this possibility? Please give information on the approximate number of claims made to this Agency relating to informal care support and the follow up given by the Agency.

**Answer of the Association:**

As far as our Association knows this kind of rectifying takes place only in theory. The personnel resources in the Regional State Administrative Agencies are small and the officials have a wide range of tasks beside surveillance of budgetary appropriations for informal care. We do not know if State Agency has ever used this rectifying possibility. The municipalities are so independent in Finland that it would presuppose special courage from the officials to rectify the situation of the appropriations. Some of our Association's local organizations may have tried to make complaints about small appropriations running out at the beginning of the budget year to the Regional State Administrative Agency, but as far as we know nothing has happened. A typical example of the praxis of under budgeting to support for informal care is the city of Vantaa that terminated the contracts in 2009 and again in 2012. Also in 2010-2011 the appropriations have run out before the budget year is over in Vantaa. Still, according to the Ombudsman (see Add. 2 section 3.2.) the appropriations to social services including for remuneration to informal



care should be set along the need in the municipality and the municipality is obliged to assess the future need of appropriation by analyzing the development of arising need of services in the municipality.

As for using juridical methods in defending their rights we must emphasize that very many informal carers are too tired to act actively and use the available complaint possibilities. Most often they just accept what they get from the municipality. They may appeal of the rejecting decision to their appeal of remuneration but normally the decision from the Administrative Court is negative to them. The Administrative Court cannot raise the appropriation if it has finished during the budget year and the informal carers are left without remuneration contracts. Informal carers do not have many options in their encounters with municipal bureaucracy. Complaining and appealing opportunities and other juridical means offer very little for informal carers.

As a conclusion our Association notes that the oppressed position of informal carers and their cared-for persons is not in accordance with the Treaty. Our Association suggests that the Committee in its answer to our Complaint requires Finland to change the legislation so that the situation in Finland will turn to be in accordance with the treaty.

Helsinki 30.9.2012

The Central Association of Carers in Finland  
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## Appendixes