



European
Social
Charter

Charte
Sociale
Européenne



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

8 October 2012

Case Document No.6

Association of Care Giving Relatives and Friends v. Finland
Complaint No. 71/2011

**REPLIES FROM THE GOVERNMENT
TO ADDITIONAL QUESTIONS**

Registered at the Secretariat on 5 October 2012

Mr Régis Brillat
Executive Secretary
European Committee of Social Rights
Council of Europe
F-67075 Strasbourg CEDEX
F R A N C E

Helsinki, 5 October

COMPLAINT NO. 71/2011
ASSOCIATION OF CARE GIVING RELATIVES
AND FRIENDS v. FINLAND

Sir,

With reference to your letter of 18 September 2012, I have the honour, on behalf of the Government of Finland, to submit the following replies to your Committee's list of additional questions to the parties.

Question for clarification

Question 10 of the questionnaire on Collective Complaint (CC) n° 71/2011 sent to the Government on 24 of July read: "What is the number of appeals made to the Administrative Court for refusal of institutional care and/or housing services?"

The reply which you gave to this question apparently relates to the "cases concerning informal care support in administrative courts 2005-2010" and seems to be the same answer given to question 9 of the questionnaire on CC n°70/2011 that reads: "What is the number of appeals made to the Administrative Court for refusal of informal care support?"

Question 10 (concerning CC 71/2011) aimed to obtain factual information on the number of appeals on fees per year (preferably 2010 and 2011) relating to fees for service housing and service housing with 24-hour assistance. According to Section 15 of the Act on Client Fees in Social Welfare and Health Care (734/1992) the client has the right to appeal to a body under Section 6 of the Social Welfare Act for a review of a decision on fees for social services.

Could you please provide information on this specific question?

There are no statistics available concerning specifically the cases on the number of appeals relating to fees of service housing and service housing with 24-hour assistance.

Additional questions to the Parties

Question 1.

According to Section 40a of the Social Welfare Act (710/1982) persons in need of social services have the right to have their needs assessed by a social service expert, in case of a person aged 75 years or over within 7 weekdays from respective contact in non-urgent cases. Is there a monitoring system on practical application of this provision? How many assessments of social service needs of persons aged 75 years or over have been conducted per year (preferably 2010 and 2011) by municipalities in total? For the same time periods, in how many cases has such assessment identified the need for service housing (or service housing with 24-hour assistance)? For the same time periods, how many persons have actually entered service housing or service housing with 24-hour assistance?

The National Institute for Health and Welfare (THL) has conducted a survey on service needs assessments in municipalities in 2010. In 2010, the municipalities conducted service needs assessments to around 10,5 per cent of persons aged 75 years and over. According to the said assessment, around 70 per cent of persons, whose service needs were assessed, received more services than before or they received new kinds of services. According to the survey, municipalities have more difficulties in organizing service housing than in organizing informal care support, home care or other services; 12,5 per cent of municipalities reported considerable difficulties in organizing service housing.

No information is available on the number of people who are granted service housing or service housing with 24 -hour assistance on the basis of social service needs assessment. At the end of 2010, there were 24 430 persons aged 75 and over in service housing with 24 -hour assistance. Of the number of persons mentioned, 8 900 persons had started to use this type of service in 2010. At the end of 2011, there were 26 210 persons aged 75 and over in service housing with 24 -hour assistance. Of the number of persons mentioned, 9 130 persons had started to use this type of service in 2011.

Question 2.

What happens in case of disagreement between the elderly or disable person and the social worker concerning the need of services? Does the legislation provide means to solve this disagreement?

General

Social welfare and health care clients and patients are protected by two pieces of interrelated legislation: the Act on the Status and Rights of Patients (785/1992) and the Act on the Status and Rights of Social Welfare Clients (812/2000). These pieces of legislation define the legal principles according to which clients and patients must be treated when using health care and social services. The legislation mentioned is supplemented by a range of quality recommendations which cover different aspects of social service and health care provisions (for example National framework for high-

quality services for older people, see http://www.stm.fi/en/publications/publication/-/_julkaisu/1063089#en).

Preparation of an Act on social and health services for the elderly is stated in the Programme of the Finnish Government (22 June 2011). A Government Bill, prepared by the Ministry of Social Affairs and Health, will be presented to the Parliament in October 2012.

Social welfare client rights

The legislation on the status and rights of social welfare clients covers both public and private social welfare services. Social welfare clients are entitled to good quality services without discrimination. They must be given the right to participate in and influence the planning and implementation of services intended for them. They are entitled to be informed about possible alternative procedures and to receive and examine all information concerning themselves. Clients are entitled to obtain any administrative decisions which concern them in writing and to appeal any decisions. Clients are entitled to file a complaint concerning the quality of any service or treatment they have received. Municipal social service ombudsmen assist clients in appealing the decisions and filing complaints.

If clients or patients are dissatisfied with the decisions, services, assistance or treatment provided, they may appeal the decision, file an objection concerning a particular service or treatment procedure to the responsible authority, or file a complaint to the supervising authority.

Complaints and objections are handled by municipal social service ombudsmen or health care ombudsmen and the social and health departments of the State Provincial Offices.

Question 3.

According to the Association, "Many elderly persons do not even try to have access to service houses though their condition would require the access due to the high costs, which they cannot reach with their income". Is there representative factual information available (for example survey data) on the prevalence of such situations where elderly persons have not applied for service housing (or service housing with 24-hour assistance) which is necessitated by their condition due to high costs they cannot afford or would put them in economic hardship? Please provide evidence.

There are no studies or other evidence-based information which would support a proposition of the Association of Care Giving Relatives and Friends according to which "Many elderly persons do not even try to have access to service houses though their condition would require the access due to the high costs, which they cannot reach with their income".

Question 4.

According to the Government, "There are no provisions on the determination of client fees for service housing or service housing with 24-hour assistance in the Client Fee Act. This explains the variation in the client fee policies in the municipalities. Usually the fees depend on income at least to a degree." According to Section 1 of the Act on Client Fees in Social Welfare and Health Care (734/1992), fees for municipal social services can be charged with consideration to the person's ability to pay. According to Section 11 of the same Act, the fee for social service which is based on client's ability to pay shall be lowered or left uncollected if the client fee threatens to endanger the subsistence of the client. Please refer to any municipalities where the regulation of client fees for service housing and service housing with 24-hour assistance does not take into account person's income or ability to pay. In case of municipalities, where the client fee policy does take into account person's income or ability to pay, please bring examples of municipalities and their regulations, where the income-test or other applicable criteria are such that make service housing inaccessible for those with limited financial resources or would put the clients of these services in economic hardship.

According to Section 1 of the Act on Client Fees in Social Welfare and Health Care (Act on Client Fees, 734/1992), fees for municipal social services can be charged according to the individual's ability to pay. Municipalities often fix the fees charged for service-housing according to the client's ability to pay but there is some variation in the fee practices among the municipalities.

A working group concerning Care and Attention on a 24-hour Basis (Ministry of Social Affairs and Health report 2010:28) conducted a survey (by the National Institute for Health and Welfare) on 59 municipalities concerning client fees for service housing with 24-hour assistance. The survey demonstrated that only two municipalities used a fixed fee. In the remaining municipalities, the fee is set according to the client's ability to pay. The two municipalities mentioned had fixed the fees according to the intensity of the care needed in individual cases. The survey does not offer exact information on what is included in these fixed fees but the fees were either "package-fees" or "graded" fees. The survey does not offer information on which individual municipalities had fixed fees. Therefore it is not possible to refer to any certain municipality.

The objective of the legislation on client fees is that client fees should not become an obstacle to service use. The fees should not be set to a level where clients would have to be granted social assistance, if the client in question is facing economic hardship. According to Section 11 of the Act on Client Fees, the fee for social services and the fee for health services which are based on the client's ability to pay shall be lowered or left uncollected if the fee threatens to endanger the subsistence of the client. This statute presupposes that attention is paid to the individual clients' personal needs (e.g economic hardship) when collecting a fee for social services and a fee for health services which are based on the client's ability to pay.

Question 5.

According to Section 2 of the Act on Client Fees in Social Welfare and Health Care (734/1992), the fees for services may not exceed the costs of producing the service. Is there any further regulation or guidance on how the cost of producing service shall be calculated? Do the costs of producing services and respective client fees in this provision refer to the cost of specific services to an individual user or to the overall average cost of producing respective service?

According to Section 2 of the Act on Client Fees, the fees for services may not exceed the total cost of producing the service. Section 2 of the Act on Client Fees is based on the idea that the municipal income gathered by collecting client fees should not be used for financing any other municipal activity than the basic services necessary for the wellbeing of the members of the community. The Act on Client Fees does not cover the calculation of production costs. In the government proposal (216/1991) regarding the Act on Client Fees, it is mentioned that the operating costs should, above all, be taken into account in the evaluation of production costs.

In practice the municipalities often evaluate the overall average cost of producing a service, not the cost of specific services to a specific individual. The municipalities evaluate the cost of producing services according to their reinforced financial statements or reinforced budget.

For additional information, the Association of Finnish Local and Regional Authorities (Suomen Kuntaliitto) has issued a "Cost Accounting Guide to municipalities" (*Kustannuslaskentaopas kunnille ja kuntayhtymille; Handbok i kostnadsberäkning för kommuner och samkommuner*) which covers informational guidelines on calculation of production costs.

Question 6.

Is there a supervision system established by the state to secure that all local municipalities comply with their legal requirements under the Act on Client Fees in Social Welfare and Health Care (734/1992), in particular those arising from Sections 1, 2 and 11 of the Act?

According to the Social Welfare Act (710/1982), the Ministry of Social Affairs and Health is responsible for general planning, guidance and supervision concerning social welfare. According to the Act mentioned, the Regional State Administrative Agencies are responsible for planning, guidance and supervision concerning social welfare within their area of operation. Furthermore, the Act stipulates that the National Supervisory Authority for Welfare and Health operating under the Ministry of Social Affairs and Health guides the operations of the Regional State Administrative Agencies in order to harmonise their principles of operation, procedures and decision practices in the guidance and supervision of social welfare. The Supervisory Authority guides and supervises social welfare in particular concerning issues that are important as a matter of principle and of great consequence, issues regarding the area of operation of several Regional State Administrative Agencies or the country as a whole, as well as issues which the Regional State Administrative Agency concerned is considered disqualified to deal with.

The Act on Client Fees contains provisions pertaining to the lodging of an appeal concerning individual client fees (Section 15).

The Parliamentary Ombudsman exercises oversight to ensure that public authorities and officials observe the law and fulfill their duties in the discharge of their functions.

Accept, Sir, the assurance of my highest consideration.

Arto Kosonen
Director,
Agent of the Government of Finland
before the European Committee on Social Rights