



12/02/2020

RAP/RCha/FIN/15(2020)

EUROPEAN SOCIAL CHARTER

15th National Report on the implementation
of the European Social Charter

submitted by

THE GOVERNMENT OF FINLAND

Follow-up to collective complaints:

No. 70/2011, No. 71/2011, No. 88/2012, No. 106/2014, No.
108/2014

Report registered by the Secretariat on

20 December 2019

CYCLE 2019

**FIFTEENTH PERIODIC REPORT
ON THE IMPLEMENTATION OF
THE REVISED EUROPEAN SOCIAL CHARTER**

SUBMITTED BY THE GOVERNMENT OF FINLAND

DECEMBER 2019

FIFTEENTH PERIODIC REPORT ON THE IMPLEMENTATION OF THE REVISED EUROPEAN SOCIAL CHARTER

In accordance with the Secretariat for the European Social Charter's request by a letter of 27 May 2019 to report, under the new reporting procedure adopted by the decision of the Committee of Ministers on 2 April 2014, on the follow-up on five collective complaints Nos. 70/2011, 71/2011, 88/2012, 106/2014 and 108/2014 which concern Finland and were handled in accordance with the collective complaint procedure.

In accordance with Article C of the Revised European Social Charter (Finnish Treaty Series 78-80/2002), the instrument of acceptance which was deposited on 21 June 2002, and Article 23 of the European Social Charter, copies of this official report in the English language have been communicated to the Central Organisation of Finnish Trade Unions (SAK); the Finnish Confederation of Salaried Employees (STTK); the Confederation of Unions for Academic Professionals in Finland (AKAVA); the Confederation of Finnish Industries (EK); and the Federation of Finnish Enterprises (FFE).

Table of Contents

ASSOCIATION OF CARE GIVING RELATIVES AND FRIENDS V. FINLAND (NO. 70/2011)	4
Development of support for informal care in terms of quantity	4
The criteria for granting support are now more uniform	4
Results of the key project.....	5
Survey of the Finnish Institute for Health and Welfare on the situation with support for informal care.....	5
Study on the reconciliation of informal care and gainful employment.....	6
Measures taken by Prime Minister Marin's Government to reform services for the elderly.....	7
Views by non-governmental organisations.....	8
ASSOCIATION OF CARE GIVING RELATIVES AND FRIENDS V. FINLAND (NO. 71/2011)	8
FINNISH SOCIETY OF SOCIAL RIGHTS V. FINLAND (NO. 88/2012).....	9
Sickness allowance, parental allowance and rehabilitation allowance	9
Unemployment allowance and labour market subsidy	9
Social assistance.....	10
Guarantee pension.....	11
Basic income experiment.....	11
Views by non-governmental organisations.....	12
FINNISH SOCIETY OF SOCIAL RIGHTS V. FINLAND (NO. 106/2014).....	12
View by the Confederation of Finnish Industries (EK)	12
View by the Federation of Finnish Enterprises (Suomen Yrittäjät).....	13
Views by Finnish Confederation of Professionals (STTK) and Confederation of Unions for Professional and Managerial Staff in Finland (Akava).....	13
FINNISH SOCIETY OF SOCIAL RIGHTS V. FINLAND (NO. 108/2014).....	14
General housing allowance	14

**INFORMATION ON THE FOLLOW-UP GIVEN TO THE DECISIONS OF THE
EUROPEAN COMMITTEE OF SOCIAL RIGHTS RELATING TO THE FOLLOWING
COLLECTIVE COMPLAINTS**

Association of Care Giving Relatives and Friends v. Finland (No. 70/2011)

1. The Government refers to information given in connection with its thirteenth periodic report and submits the following new information below.

Development of support for informal care in terms of quantity

2. The numbers of recipients of support for informal care and of informal carers responsible for them are shown by municipality in the official statistics published annually.

3. In 2018, a total of 49 680 persons received support for informal care. Of these beneficiaries, 67% were over 65 years old. The number of informal carers responsible for them was 47 504, and 58% of these were over 65 years old. The number of recipients of support grew by 3.0% from 2016 to 2017 and by 3.7% from 2017 to 2018.

The criteria for granting support are now more uniform

4. The support for informal care is a statutory service provided by all municipalities, but its coverage of the population varies. When a person applies for support for informal care, the municipality examines his or her need for the support and the relevant forms of support when making an individual assessment of the applicant's service needs and preparing a client plan based on the assessment. The general criteria for granting the support are laid down by law, but the detailed criteria still vary by municipality and region. In recent years, however, the trend has been toward harmonized criteria and amounts of care allowance at regional level. Many of the 18 regions in Finland have already introduced uniform criteria for granting the support and uniform amounts of care allowances.

Results of the key project

5. Under the Government's key project on home care and informal care for 2016–2018, services of home care and informal care were reformed to make them more equal and better coordinated. During the key project, each region in Finland had an agent of change whose task was to ensure that a coordinated service package will be provided for the elderly in the region. The Ministry of Social Affairs and Health provided funds for the agents. The service package includes policies and measures concerning informal care in the region. Descriptions of the coordinated service packages in each region, written by the agents of change, are published at the website of the Ministry. The regions continue to work on the implementation and elaboration of the plans.

6. In addition to the activities of the agents of change, the key project included regional sub-projects to develop the services. Eight comprehensive regional trials were conducted to reform home care and informal care, and they covered more than 40% of all municipalities in Finland. The results of the trials are described in reports published by the Ministry of Social Affairs and Health. New operating models and regional service packages created in the reform process have already been introduced in different parts of Finland. All the models and services packages are independent of service structures and administrative structures, and they can be utilised all over the country.

Survey of the Finnish Institute for Health and Welfare on the situation with support for informal care

7. As part of the key project, the Finnish Institute for Health and Welfare, on commission by the Ministry of Social Affairs and Health, carried out a survey on home care and family care among municipalities. The survey studied the impact in municipalities, in 2017, of the amendments made to the Act on Support for Informal Care and the Family Care Act and of the additional appropriation reserved for the development of informal care and family care (EUR 49.3 million in 2016, EUR 90 million in 2017 and EUR 95 million as of 2018). The survey was carried out by collecting data electronically between 7 September and 7 October 2018. The survey reached 86% (163) of the municipalities, joint municipal authorities and co-operation areas in Mainland Finland.

8. According to municipalities, the support for informal care most often replaces services of home care (34%) or intensive home care (more than 60 visits/month) (29%). Municipalities estimate that, if no support for informal care were available, 28% of the recipients of the support would be cared for in service housing with 24-h assistance, 5% in family care and 4% in homes for elderly persons or other institutional care without support for informal care.

9. Municipalities are responsible for providing informal carers with, for instance, days off, coaching and training as well as health and wellbeing checks, where needed. Such checks became a statutory obligation as of 1 July 2016, and the provision of coaching became it as of the beginning of 2018. According to the survey by the Finnish Institute for Health and Welfare, as many as 84% of all municipalities carried out health and wellbeing checks in 2017 but only slightly more than one third (39%) provided training that year. Of all municipalities, 68% had made a plan to coach informal carers for 2018. A total of 68% of all municipalities offered a cost-free health and wellbeing check to all informal carers at least every second year, and 25% offered it to part of the informal carers. According to municipalities, the content of the checks consisted of a wide variety of elements related to the resources and coping of the informal carers, the assessment of their functional ability, and the sufficiency of support and services for them. The survey showed that only approximately half of all informal carers take their statutory days off, although all of them have been entitled to it since 1 July 2016. The reason for this is often that families do not have enough suitable options for arranging a stand-in for the informal carer. The survey highlighted that the variety of options for stand-in arrangements is an important factor to be developed further in order that an increasing number of informal carers will exercise their right to days off.

Study on the reconciliation of informal care and gainful employment

10. On 23 May 2018, Annika Saarikko, the then Minister of Family Affairs and Social Services, appointed a rapporteur to study different means to reconcile gainful employment with informal care. The study, published in January 2019, was part of the key project for home and informal care for elderly people, included in the national health and social services reform. According to the rapporteur, the current legislation seldom prevents successful reconciliation of gainful employment with informal care. However, the interpretation of the legislation should be harmonised between, for instance, Employment and Economic Development Offices when assessing whether an informal carer is available for the labour market or not, and between municipalities when considering services to support informal care. The rapporteur underlined that municipal services play a key role in reconciling informal care with gainful employment, and that the legislation on these services is mainly adequate. What is essential is to assess each family's need for services to support their informal care, as already required by the legislation, and, among other things, to understand the impacts of gainful employment on their needs. According to the study, especially successful day off arrangements are important for ensuring informal carers' coping. The rapporteur pointed out some needs for legislative amendments, which mainly relate to compensation for informal carers' loss of income during short periods of informal care and to unemployment security for informal carers.

Measures taken by Prime Minister Marin's Government to reform services for the elderly

11. The Ministry of Social Affairs and Health has set up a working group to prepare proposals to reform the service package for elderly persons and to prepare for the ageing of the population. The term of the working group is from 9 April to 31 December 2019.

12. The objective of the working group is to ensure high-quality, equal and cost-effective services for the elderly. Furthermore, the group will prepare an age programme for long-term measures related to the ageing of the population. The age programme will also deal with different forms to support informal care.

13. For ensuring the quality of the services, the working group will assess which existing quality recommendations on services for the elderly should be stipulated at the level of an act of Parliament. The working group will also prepare proposals for the necessary legislative amendments and the related impact assessments. Moreover, the working group will propose a quality recommendation for the years 2020–2023, guide the preparation of the age programme and submit a proposal for the implementation of the proposed measures. The working group, divided into eight sections, will assess at least the following thematic areas:

- preventive work and services designed to maintain the functional ability of the elderly
- raising the minimum staffing level in units with 24-hour attendance to 0.7 employees per person cared for, and clarifying the division of work in that context
- number, competence, allocation and direction of staff and the total need for staff, considering also the needs of home care and informal care
- ensuring the quality of care, such as care quality indicators and supervision of the care
- assessment of the need for services, including national indicators for assessing and monitoring the need for services and care on a comparable basis
- coordination between the Act on Care Services for Older Persons and the Social Welfare Act, and removing overlaps between them
- solutions related to housing and living environments, especially new intermediary housing options.

14. The sufficiency of resources for home care and informal care will be improved and the utilisation and distribution of the results of the home care and informal care trials conducted during the previous government term will be promoted by means of a project to develop home care and informal care. Separate funding will be reserved for the project.

15. The Government is preparing a comprehensive structural reform of public social welfare and health care services. With the reform, the responsibility for arranging these services would be transferred from municipalities to the 18 regions. The reform includes support for informal care: it would harmonize the criteria for granting the support at least at regional level.

16. Moreover, the different forms of supporting informal care will be developed during the current government term through development projects. The detailed content of the projects has not been determined yet, but the projects will probably take into account and apply, where applicable, at least the studies of informal care described above and their conclusions, recommendations and proposals for development.

Views by non-governmental organisations

17. The non-governmental organisations have drawn attention to inequality among the informal carers on grounds of their place of residence.

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

18. The Government refers to information given in connection with its thirteenth periodic report and submits the following new information below.

19. A Government Proposal for a new Act on Client Charges in Health and Social Services was submitted to the Finnish Parliament in December 2018. The proposal included fees for service housing and for service housing with 24-hour assistance. In service housing with 24-hour assistance, the proposed fee would have been based on the client's income in a way, which is similar to the fee for long-term institutional care. The upper limit of the proposed fee would have been 85% of the client's monthly net income. However, the client should have been left with at least EUR 160 per month.

20. The above-mentioned Government Proposal did not result in new legislation because the previous Government resigned in March 2019 before Parliament could approve the proposal. According to the Programme of the new Government, the Act on Client Charges in Health and Social Services will be reformed to remove barriers to treatment and to increase equality in health by introducing more cost-free services and by making client charges more equitable. The Government Proposal will be submitted to Parliament in 2020.

Finnish Society of Social Rights v. Finland (No. 88/2012)

Sickness allowance, parental allowance and rehabilitation allowance

21. The Government refers to information given in connection with its thirteenth periodic report and submits the following new information below.

22. In its revised General Government Fiscal Plan for the years 2017–2019, the Government decided to freeze the index adjustment of benefits linked to the national pension index and the consumer price index for 2017–2019. However, this did not apply to social assistance. In 2020, the index adjustments will be made normally.

23. A general increase at the beginning of 2018 raised the minimum rates of the sickness allowance, parental allowance, special care allowance and rehabilitation allowance from EUR 593.25 to EUR 616 per month. The purpose of the increase was to make the net amount of the minimum rate exceed the basic amount of social assistance, in order that people entitled to the minimum rate be, in principle, covered by the right benefit scheme.

24. The minimum rates of the sickness and parental allowances, special care allowance and rehabilitation allowance were raised at the beginning of 2019, too, from EUR 24.64 in the 2018 index to EUR 27.86. Consequently, the monthly amount of the allowances rose to EUR 696.50. The purpose of the increase was to raise the daily allowances and the rehabilitation allowance to the level of the labour market subsidy, in order to level out differences between recipients of benefits under different benefit schemes, to make the benefit scheme more uniform and to emphasise the primary benefit scheme instead of social assistance.

25. Increases in the above-mentioned minimum benefits will continue. To reduce inequality and to emphasise the primary benefit scheme, the Government proposed to Parliament that the basic security be raised by EUR 20 per month. The Government also proposed that the minimum rates of the sickness and parental allowances, special care allowance and rehabilitation allowance be raised to EUR 28.66 per day, *i.e.*, EUR 716.50 per month. The increase will take effect on 1 January 2020.

Unemployment allowance and labour market subsidy

26. According to the Programme of Prime Minister Marin's Government, the amount of the basic unemployment allowance and the labour market subsidy will be raised by EUR 20 per month in the beginning of 2020. As a result of the raise, the amounts of earnings-related unemployment allowances will also rise. Index adjustments will also be made yearly from now on. In the preceding three years, no index adjustments were made.

27. Furthermore, according to the Programme of the Marin Government, and as accepted by Parliament on 11 December 2019, the so-called active model will be abolished on 1 January 2020. The active model reduces the monthly amounts of unemployment benefits by approximately 5% if the unemployed person does not fulfil the activity requirement in 65 days.

28. As to the labour market subsidy, it should be taken into account that the subsidy has no maximum duration but is payable for an unlimited time.

29. Unemployed jobseekers can furthermore improve their income level by participating in services that promote employment and thus receiving an increase of EUR 4.74 per weekday in the unemployment benefit (labour market subsidy and basic unemployment allowance) for up to 200 days. During the participation, they are also entitled to an expenditure increase (EUR 9 per weekday). Persons who have custody of a child are entitled to an increase of EUR 5.23 per weekday for one child, while two children entitle to an increase of EUR 7.68 per weekday and three to an increase of EUR 9.9 per weekday. The level of the labour market subsidy was raised considerably as of the beginning of 2012, by around EUR 100 per month. At the beginning of 2013, means testing based on a spouse's income was abandoned. It was also abandoned in the case of persons aged 55 years or more who have met the time-at-work condition prior to their unemployment or during their participation in services promoting employment. Moreover, unemployed jobseekers now become eligible for earnings-related unemployment allowance earlier than before: as of 2014, the time-at-work condition was reduced from 34 weeks to 26 weeks.

Social assistance

30. The Finnish system of social assistance consists of basic social assistance, supplementary social assistance, and preventive social assistance. At the beginning of 2017, the granting and payment of basic social assistance was transferred from municipalities to the Social Insurance Institution. The purpose of the reform is to promote equal access to basic social assistance, make dealing with the authorities easier and simpler, and increase the efficiency of the authorities' operations.

31. In 2017, the basic amount of social assistance was EUR 487.89 per month, and the amount is adjusted annually by the national pension index. The expenses covered by the basic amount include food, clothing and minor health care costs, personal hygiene and cleanliness of the home, use of local transport, subscribing to newspapers, use of telephone and communications network, hobby and recreational pursuits, and comparable everyday living expenses of the person and family. Other basic expenses which are taken into account up to a reasonable amount are housing expenses (e.g. rent or maintenance charge, water, heating, electricity and home insurance premium), other health care expenses as well as necessary moving expenses.

32. In addition to the basic social assistance granted by the Social Insurance Institution, municipalities may grant supplementary social assistance to cover special expenses such as unforeseen housing expenses and expenses arising from special needs or circumstances, for instance long-term receipt of social assistance and long-term or serious illness. Municipalities may also grant, and decide the criteria for granting, preventive social assistance to promote a person's or family's independent coping and to prevent social exclusion. Preventive social assistance may be granted for instance to alleviate difficulties caused by over-indebtedness or a sudden deterioration of the financial situation.

Guarantee pension

33. The rate of the guarantee pension was raised on 1 January 2016, 1 January 2018 and 1 January 2019. As of the beginning of 2016, the full amount of the guarantee pension was raised to EUR 766.85 per month. Following an index adjustment, the amount decreased to EUR 760.26 per month at the beginning of 2017. At the beginning of 2018, the full amount of the guarantee pension was raised to EUR 784.52 per month. On 4 December 2019 Parliament accepted a Government Proposal for a general increase of the guarantee pension for the year 2020 to take effect on 1 January 2020.

Basic income experiment

34. In 2017–2018, Finland carried out a basic income experiment, where a basic income of EUR 560 per month was paid out to a random sample of persons receiving labour market subsidy from 1 January 2017 to 31 December 2018. As the basic income was tax free for the recipients, it constituted in practice net income unaffected by the recipient's other income. In addition to the basic income, the recipients were paid all the benefits that they would have also received otherwise and that exceeded the amount of the basic income. Social assistance and the housing allowance were paid normally, in addition to the basic income. Even if the recipient found employment during the experiment, he or she received the full amount of basic income.

35. The purpose of the basic income experiment was to study how social security could be adjusted to better respond to changes in working life, whether social security can be made inclusive and provide incentives for work, and whether bureaucracy can be dismantled and the benefit system simplified.

36. In light of the first results of the evaluation of the experiment, the participants experienced a higher quality of life than the reference group. So far, the impacts of the experiment on employment are known only for the first year of the experiment. During the first year, the employment rate among the recipients of basic income was on par with the reference group although employment was a strong financial incentive for the recipients.

37. It must be taken into account that one year is too short a period for real employment impacts to become visible. Nevertheless, the first results of the experiment indicate that increased financial incentives do not suffice to promote employment among jobseekers with a weak position in the labour market. The incentives must be supported with well-functioning and well-integrated services. More comprehensive results of the experiment will be published in early 2020.

Views by non-governmental organisations

38. The non-governmental organisations have drawn attention to the level of the basic social security benefits.

Finnish Society of Social Rights v. Finland (No. 106/2014)

39. The Government refers to information given in connection with its thirteenth periodic report and submits that there is nothing new to report.

View by the Confederation of Finnish Industries (EK)

40. The Confederation of Finnish Industries has stated that it agrees with the opinion of the Government on compensation for unlawful dismissal and on reinstatement in employment.

41. The Confederation has emphasized that, in this respect, the content of the legislation is based on the joint tripartite opinion of the Government and social partners.

42. The amounts of compensation are stipulated by legislation are sufficient and also conducive to ensuring compliance with it. The legislation lays down the minimum amount of compensation which covers both material and immaterial damage suffered by the employee. Moreover, any future financial losses of the employee must be taken into consideration. Dismissed employees are not deprived of financial security because they are covered by the unemployment security system.

43. This prior provision of legislation permitting reinstatement in employment was repealed in 2001 because it was difficult to apply in practice. Finland cannot be expected to enact legislation that, in light of decades of experience, will not function in practice.

View by the Federation of Finnish Enterprises (Suomen Yrittäjät)

44. The Federation of Finnish Enterprises considers Finnish legislation appropriate and to be in conformity with the Article 24 of the Revised European Social Charter.

45. The Federation of Finnish Enterprises refers to the 13th periodic report of Finland where comprehensive arguments have been stated and notes that the Committee does not present proper reasoning for its decision. The Federation of Finnish Enterprises also refers to its statement of 3 November 2017 given in connection with the 13th periodic report, where arguments for conformity of Article 24 have been presented.

46. In addition, the Federation of Finnish Enterprises would also like to stress that regarding reinstatement as an “other appropriate relief”, the literal reading of Article 24 leaves room for interpretation and therefore different solutions for national implementations must be possible. Article 24 cannot be interpreted in a way that reinstatement is included as a specific and indispensable remedy according to the Article 24, as it is not explicitly mentioned in it. National systems must have options in implementation, as it is also stated in the appendix of the Charter.

47. Furthermore, it must be noted that neither the European Committee of Social Rights’ conclusions 2003 (Bulgaria) nor the Digest of the case law of the Committee contain sufficient reasoning why reinstatement is considered to be *de facto* prerequisite to conformity with Article 24.

48. Generally, an obligation for reinstatement is not appropriate relief in cases of dismissal as it means forcing contractual parties to continue their contractual relationship against mutual will. Also, from practical point of view, forced reinstatement would not be suitable solution for parties of employment relationship. Especially in small workplaces it is in practice impossible to continue working in situations where personal relations between employee and other employees and/or employer representatives are inflamed and dysfunctional, which is usually the case if the dismissal have been done and disputed later.

Views by Finnish Confederation of Professionals (STTK) and Confederation of Unions for Professional and Managerial Staff in Finland (Akava)

49. As described in the conclusions concerning Article 1, the Committee has found that the regulation of the maximum amount of the compensation payable for unlawful dismissal conflicts with the Charter. In this regard, the situation cannot be considered satisfactory.

50. In this context, Chapter 12, Section 3 of the Employment Contracts Act is to be mentioned. According to Section 3, any paid unemployment benefits are deducted from the compensation. Furthermore, in light of the established case law on the compensation, the compensation is very easily also interpreted as a financial benefit under the Unemployment Security Act, *i.e.* ‘a golden handshake’.

51. The Employment Contracts Act does not contain provisions on reinstatement after unlawful dismissal. However, Section 55 of the State Civil Servants' Act provides that a civil servant's service relationship continues without interruption if it is established by a final decision that notice was given or the cancellation of the service relationship was made without the grounds laid down in the Act. In this regard persons in employment relationship and civil servants are in different legislative position.

Finnish Society of Social Rights v. Finland (No. 108/2014)

52. The Government refers to information given in connection with its thirteenth periodic report as well as information given in connection with Collective Complaint No. 88/2012 above, and submits the following new information below.

General housing allowance

53. The system of the general housing allowance was reformed as of 1 January 2015. The definition of the maximum housing costs acceptable for the housing allowance was simplified by removing the effect of the size, age, equipment level and heating system of the residence. The only factors affecting the maximum housing costs are the location of the residence and the number of household members. The definition of the earnings deduction was also simplified, and the regional grading of the deductible was abandoned. Moreover, the maximum housing costs were increased by EUR 50, and the deductible decreased by 8 per cent. To lower the threshold for accepting work, the level of earned income and entrepreneurial income affecting the amount of the housing allowance was lowered by EUR 300 as of 1 September 2015. This corresponds with the unemployment security system, where unemployed jobseekers can earn EUR 300 per month on top of the full unemployment benefit.

54. Students studying in Finland were transferred under the general housing allowance scheme by a legislative amendment that took effect on 1 August 2017. Earlier, students received a student housing supplement.

55. The Government underlines that in Finland, social security does not only consist of individual monetary benefits but constitutes an aggregate of minimum benefits payable in money and their different components, of earnings-related benefits and services supplementing them and of payment ceilings. In assessing compliance of the Finnish system with the provisions of the Charter, this overall picture of the Finnish social security system should be taken into consideration.

===