

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



31 March 2010

Case document No. 5

**European Trade Union Confederation (ETUC)/
Centrale Générale des Syndicats Libéraux de Belgique (CGSLB)/
Confédération des Syndicats chrétiens de Belgique (CSC)/
Fédération Générale du Travail de Belgique (FGTB)
v. Belgium
Complaint no. 59/2009**

OBSERVATIONS FROM FINLAND

registered at the Secretariat on 19 March 2010



*Ministry for Foreign Affairs of Finland
Unit for Human Rights Courts and Conventions*

Helsinki, 19 March 2010

Mr Régis Brillat
Executive Secretary
European Committee of Social Rights

Collective Complaint No. 59/2009

European Trade Union Confédération (ETUC)/ *Centrale Générale des Syndicats Libéraux de Belgique (CGSLB)/ Confédération des Syndicats chrétiens de Belgique (CSC)/ Fédération Générale du Travail de Belgique (FGTB) v. Belgium*

Sir,

With reference to your letter of 11 December 2009, I have the honour, on behalf of the Government of Finland, to submit the following comments in the present case.

The Government wishes to observe that in Finland, the right to take collective action, to go to strike, is one of the basic rights, based on both ordinary legislation and collective agreements (e.g. the Collective Agreement Act, Collective Agreement Act for Government Employees etc.).

This right is also protected by the Constitution of Finland (731/1999). According to Section 13 of the Constitution, everyone has the right to arrange meetings and demonstrations without a permit, as well as the right to participate in them.

Everyone has the freedom of association. Freedom of association entails the right to form an association without a permit, to be a member or not to be a member of an association and to participate in the activities of an association. The freedom to form trade unions and to organise in order to look after other interests is likewise guaranteed. More detailed provisions on the exercise of the freedom of assembly and the freedom of association are laid down by an Act.

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The right to freedom of assembly and to freedom of association is also protected by Article 11 of the European Convention on Human Rights.

The Government observes that interpretations and actions limiting this right has to be as narrow as possible. Judicial intervention in collective disputes is based on legislation. The parties to collective agreement are bound to industrial peace as long as the agreements are in force. Forms of industrial action, concerning public sector employers, public servants' associations and public servants, are limited by law (strike for employees, lockout for employers).

Strike pickets may call for solidarity from other employees (who are not striking) when they are not working, but this call for solidarity may not take place during the working hours and in the work place. Even according to the trade union manuals in Finland strike pickets must behave politely and they cannot prevent the traffic or people entering nor leaving the work place. They just follow up the situation, give reports to their unions, and inform people about the strike, strike limits and the reasons for the industrial dispute in question.

Aggressive and physical picketing violates other workers right not to be a member of a trade union and not to take part in the activities of a trade union, their right to work and the right to enter or leave the work place freely.

The rights and freedom of other persons cannot be overruled by the right to collective actions in cases of conflicts of interest. Employees are entitled to collective withdrawal of labour. The employees who are on strike and the strike pickets are not allowed to stay in the premises without employer's prior authorisation. This cannot be considered as a geographical restriction on the right to take collective action. Peaceful freedom of assembly and expression is allowed when there is no intention to block access.

Accordingly, it appears that there is no breach of Article 6 § 4 of the revised European Social Charter.

Accept, Sir, the assurance of my highest consideration.

A handwritten signature in black ink, appearing to be 'Arto Kosonen', with a long horizontal stroke extending to the right.

Arto Kosonen
Director,
Agent of the Government of Finland
before the European Court of Human Rights