



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

29 August 2018

Case Document No. 2

ATTAC ry, Globaali sosiaalityö ry and Maan ystävät ry v. Finland
Complaint No. 163/2018

OBSERVATIONS BY THE GOVERNMENT ON ADMISSIBILITY

Registered at the Secretariat on 21 June 2018



21 June 2018

Mr Henrik Kristensen
Deputy Executive Secretary
European Committee of Social Rights

Complaint No. 163/2018
ATTAC Finland, Global Social Work Finland (GSW) and Friends of the Earth v. Finland
OBSERVATIONS ON THE ADMISSIBILITY OF THE COMPLAINT AND ON THE REQUEST FOR
IMMEDIATE MEASURES

Sir,

With reference to your letter of 24 April 2018, I have the honour, on behalf of the Government of Finland, to submit the following observations on the admissibility of the aforementioned complaint and on the request for immediate measures.

General

1. The Government observes that the present complaint has been lodged by ATTAC Finland, Global Social Work Finland (GSW) and Friends of the Earth Finland on 18 April 2018.
2. The aforementioned organisations allege that Finland has violated Articles 1, 2, 3(1), 4(2), 4(3), 4(5), 5, 6, 7(1), 7(3), 11-13, 20-24, 26-31 and Article E of the part V of the (revised) European Social Charter when negotiating and proceeding with the ratification process of the Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part.
3. Furthermore, the complainant organisations request the European Committee of Social Rights to take immediate measures by which the Government would be required to suspend the process of approval of the agreement and to assess and review the human rights impact of the agreement in a way which is acceptable to the European Committee of Social Rights.

4. The Government observes that the Committee has requested the Government to submit observations in regard of the admissibility of the complaint as well as on the request for immediate measures.

Admissibility of the complaint

Representativity and particular competence of the organisation

5. The Government notes that in accordance with Article 2 § 1 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, any Contracting State may declare that it recognises the right of any other representative national non-governmental organisation within its jurisdiction which has particular competence in matters governed by the Charter, to lodge complaints against it with the European Committee of Social Rights.
6. The Government observes that the Additional Protocol took effect in Finland on 1 September 1998 and Finland has made a declaration enabling national non-governmental organisations to submit collective complaints.
7. The Government observes that according to Article 3 of the Additional Protocol Providing for a System of Collective Complaints, the international non-governmental organisations and the national non-government organisations referred to in Article 1(b) and Article 2 respectively may submit complaints in accordance with the procedure prescribed by the aforesaid provisions only in respect of those matters regarding which they have been recognised as having particular competence.
8. According to paragraph 26 of the Explanatory Report to the Additional Protocol with the same aim of preserving the efficiency of the machinery for examining collective complaints, NGOs are subject to the same conditions as laid down for international non-governmental organisations and national organisations of employers and trade unions: they must be "representative" and particularly "qualified" in issues covered by the Charter. The Committee will judge whether these criteria are met when examining whether a complaint is admissible.
9. According to the Committee's case law, for the purposes of the collective complaints procedure, representativity of trade unions is an autonomous concept, which does not have the same significance as the notion of representativity at national level (see, *inter alia*, *Confédération française de l'Encadrement CFE-CGC v. France*, Complaint No. 9/2000, decision on admissibility of 6 November 2000, §6; *Syndicat national des professions du tourisme v. France*, Complaint No. 6/1999, decision on admissibility of 10 February 2000, §6 and *the Central Association of Carers in Finland v. Finland*, Complaint No. 70/2011, decision on admissibility of 7 December 2011, §6).
10. Therefore, the Committee has considered that the representativity of a national organisation is also an autonomous concept (*Finnish Society of Social Rights v. Finland*, Complaint no. 88/2012, decision on admissibility of 14 May 2014, §6).
11. In order to assess whether an association is representative for the collective complaint procedure, the Committee has stated that it takes

into consideration a wide range of criteria such as its social purpose, competence, scope of activities, as well as the actual activities performed (*Finnish Society of Social Rights v. Finland*, Complaint no. 88/2012, decision on admissibility of 14 May 2014, §7).

12. Moreover, with regard to the particular competence of an NGO, the Committee has, e.g., examined the statute of an organisation and the detailed list of its various activities relating to Articles of the Charter covered by the relevant complaint, which has shown that the complainant has long been involved in and particularly concerned with the relevant areas, and considered that the organisation in question had particular competence within the meaning of Article 3 of the Protocol (*Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, decision on admissibility of 10 October 2005, para. 12).
13. The Government observes that the complainant organisations have not presented any justification in their complaint in which way their organisations are representative for the purposes of the collective complaint procedure or in which way they have particular competence in the meaning of Article 3 of the Additional Protocol. Furthermore, the complainant organisations have not submitted any documentation in this regard.
14. The Government observes that all three complainant organisations are registered in the Register of Associations.
15. According to its rules, registered in the Register of Associations, Attac Finland is an independent ideological association, the purpose of which is to promote critical discussion on globalisation and on grievances in world economy, and to work towards an equal world by creating local and global networks to achieve this purpose. The association bases its activities on the manifesto adopted by the international assembly of the Attac movement in Paris on 11 and 12 December 1998.
16. Further, the rules state that to achieve its purpose, the association organises discussion meetings, general meetings as well as training and other civic activities, provides information, issues publications, proposes initiatives concerning democracy and global economy, gives rewards, and maintains national and international contacts.
17. According to the information available at its webpage, Attac Finland aims at promoting critical discussion on globalisation, social justice, citizen-oriented democracy, societal transparency and sustainable development.
18. For a long time, the spearhead themes of Attac Finland have, in addition to the Tobin tax, included cancellation of the debts of developing countries and closure of tax havens.
19. The Government notes that according to its webpage, Friends of the Earth Finland is an environmental non-governmental organisation with a social perspective. The mission of Friends of the Earth Finland is to create an ecologically sustainable, just and equal world. The association has been working for environmental protection, development issues, human rights, social justice and the promotion of peace and democracy for more than twenty years and is part of the Friends of the Earth International network.

20. According to the rules of the association, registered in the Register of Associations, Friends of the Earth Finland aims to make society more democratic and ecologically more sustainable, and to make economies more local, to protect the environment, nature, climate, water and health, and to treasure constructional and cultural heritage, to promote justice in society and economic, political and intergenerational justice, as well as gender equality, to protect the earth against further degradation, and to repair damage caused to the environment by human activity, to preserve the earth's ecological, cultural and ethnic diversity, to act against militaristic structures, to promote human and animal rights, to encourage especially young people to participate in influencing in society.
21. To achieve its aims, the association, according to its rules, participates in political decision-making and processes of public authorities, provides information and training, conducts research and issues publications, takes positions, issues opinions and makes complaints, organises lectures and courses, public meetings and festive occasions, creates content relating to its aims for different media, cooperates with entities and people working for goals compatible with the aims of the association in Finland and abroad, organises campaigns, actions and demonstrations.
22. As stated at its webpage, currently, the association focuses on two campaigns: Coal Free Finland and Community Power. Under the Action Plan 2018, the association focuses on climate activities, mining activities, nuclear power activities, water activities, indigenous peoples and links with the earth and forests, food activities, land right and forest activities, the social forum and economic justice.
23. Further, according to its webpage, in 2018, the Activity Group for Economic Justice will continue its critical monitoring of free trade agreements, especially the topical CETA Agreement, and the related activities.
24. The Government notes that according to the rules of Global Social Work Finland, available at the webpage of the association, the purpose of the association is to maintain development and companionship in social work in Finland and globally, and to promote global solidarity and social justice.
25. Further, according to its rules registered in the Register of Associations, Global Social Work Finland provides direct humanitarian aid in bilateral or multilateral development projects, conducts research, awareness raising and publishing activities in its own field, and organizes meetings, training, international exchange, seminars, exhibitions, field trips for members and other similar activities. The association conducts studies, issues opinions and participates in national and international cooperation networks.
26. According to its webpage, the participants in the activities of the association include social workers, students, teachers, researchers and professionals in different fields.
27. In 2018, the association, according to its webpage, will focus on its basic activities: coordinating local events and international internships for students in social work.

28. The Government observes that the complainant organisations are organisations focusing mainly on globalisation, environmental issues as well as on development cooperation and not, as such, on questions related to the application of the Social Charter.
29. This can also be confirmed when looking at the focus areas of the organisations in 2018 which are related to e.g. climate change, forests and organising local events and development projects.
30. Furthermore, the Government is not aware that the complainant organisations would have participated in legislative processes related to social rights nor issued any statements in this regard.
31. The Government notes that according to information available at the Finnish Parliament's webpage, in the last few years, Attac Finland and Friends of the Earth Finland have been heard in the Parliament only in the context of Transatlantic Trade and Investment Partnership (TTIP). Furthermore, Friends of the Earth has been heard by the Environment Committee of the Parliament approximately 10 times between the years 1997-2014 in matters related to globalisation, energy and climate policy.
32. According to the information available at the Parliament's webpage, Global Social Work Finland has not been heard in any of the parliamentary committees.
33. Moreover, the Government is not aware that the complainant organisations have organised any events on matters covered by the provisions of the Charter.
34. It should also be noted that the umbrella organisations which the complainant organisations are members of, are not listed as international non-governmental organisations entitled to submit collective complaints by the Governmental Committee of the European Social Charter and the European Code of Social Security.
35. Taking into account the purpose of the complainant organisations and the scope of their activities which do not include any practical involvement in dealing with social rights, the Government is of the view that the complainant organisations are not representative in the meaning of Article 2 of the Additional Protocol.
36. As regards to the particular competence of complainant organisations in matters related to the provisions of the Charter, the Government notes that sphere of activities of the complainant organisations do not concern the protection of social rights.
37. Consequently, the Government finds that the complainant organisations do not have particular competence within the meaning of Article 3 of the Protocol.
38. Therefore, in the Government's view, the present complaint should be declared inadmissible for not fulfilling the requirements under Articles 2 and 3 of the Additional Protocol Providing for a System of Collective Complaints.

39. In order for the complaint to be declared admissible, a collective complaint must necessarily be lodged in writing and clearly indicate the name and contact details of the complainant organisation; be signed by a person entitled to represent the complainant organisation and provide proof that the person submitting and signing the complaint is entitled to represent the organisation.
40. The Government notes that the complaint has been submitted in writing, and is signed by Mr Omar El-Begawy, Chairperson of the working committee of the board of ATTAC Finland, Ms. Minna Kaartinen, Chairperson of Global Social Work Finland and Ms. Liisa Uimonen, Chairperson of Friends of the Earth Finland and Ms. Jarrah Kollei, Vice-chair of Friends of the Earth Finland.
41. According to the rules of Friends of the Earth Finland, the Chairperson together with one of the Vice-Chairs are entitled to sign on behalf of the association.
42. According to the rules of Global Social Work Finland, the Chairperson is entitled to sign on behalf of the association.
43. According to the rules of ATTAC Finland, persons entitled to sign on behalf of the association are two members of the working committee of the association or a member of the working committee either with the secretary or the treasurer of the association.
44. The Government notes that the complaint has been signed by Mr. Omar El-Begawy who is the Chairperson of the working committee of the board as well as the treasurer of the association.
45. Thus, the Government observes that the complaint is signed by persons entitled to represent the complainant organisations.

Unsatisfactory application of the Charter

46. The Government notes that according to Article 4 of the Additional Protocol providing for a system with collective complaints, a complaint must relate to a provision of the Charter accepted by the Contracting Party concerned and indicate in what respect the latter has not ensured the satisfactory application of this provision.
47. In particular, the complaint must indicate the point(s) in respect of which the State in question has allegedly failed to comply with the Charter or implemented it inadequately, along with evidence and the relevant arguments, with supporting documents.
48. The Government notes that in the complaint at issue, the complainant organisations invoke nearly all Articles of the Charter.
49. The invoked Articles concern, among other rights, the rights to work, safe and healthy working conditions, a fair remuneration, protection of health, social security, protection of children, young persons and elderly persons, protection against poverty and social exclusion, and the rights of employees to organise and bargain collectively. However, the complainant organisations have not at all specified their allegations under the specific provisions of the Charter.

50. The Government observes that complainant organisations allege that the CETA Agreement would prevent the realisation of the rights protected by the Charter.
51. The complainant organisations base this allegation essentially on the assumption that the Agreement and especially its provisions on the protection of investment would generate for the Government of Finland so high liabilities for compensation that after paying them the Government could no longer afford to fund sufficient social and health services, social security or protection of employees.
52. The organisations justify their allegation about the billion euro scale compensations in more detail by referring to the health and social services reform (SOTE) and the related freedom to choose the service provider.
53. In practice, however, they fail to justify how the provisions of the CETA Agreement could lead to so high compensation liabilities that they would endanger the realisation of the rights protected by the Charter.
54. The complainant organisations base their allegations on the assumption that Finland would already become liable for compensation if a possible Canadian investor expected profits and the expectations did not materialise because of, for instance, national regulatory measures taken by Finland.
55. Chapter 8, Article 8.9 of the CETA Agreement provides that, for the purpose of the Chapter, the Parties reaffirm their right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, safety, the environment or public morals, social or consumer protection or the promotion and protection of cultural diversity. In addition, in Annex 8-A regarding expropriation, it is confirmed that non-discriminatory measures of a Party that are designed and applied to protect legitimate public welfare objectives, such as health, safety and the environment, do not constitute indirect expropriations.
56. Moreover, the Article clarifies that for greater certainty, the mere fact that a Party regulates, including through a modification to its laws, in a manner which negatively affects an investment or interferes with an investor's expectations, including its expectations of profits, does not amount to a breach of an obligation under the Section in question.
57. The Government notes that in connection with the CETA Agreement, the Parties also signed the Joint Interpretative Instrument on the CETA Agreement, which further affirms the right of the Parties to enact and apply their own legislation regulating economic activities in the public interest to achieve legitimate policy objectives. Such objectives include the protection and promotion of public health, social services, public education, safety, the environment, public morals, privacy, data protection, consumer protection, and the protection of cultural diversity.
58. The Joint Interpretative Instrument is considered as a common instrument for the purpose of interpreting a treaty within the meaning of Article 31, paragraph 2, sub-paragraph b of the Vienna Convention on the Law of Treaties. Such an instrument can be used for interpretation for instance in disputes. It has been published in the Official Journal of the European Union (OJ L 11, 14.1.2017, p. 3).

59. Chapter 8, Article 8.10 of the CETA Agreement, concerning the protection of investors, provides that each Party shall accord in its territory to covered investments of the other Party and to investors with respect to their covered investments fair and equitable treatment. The measures taken by the Parties must not, *inter alia*, constitute a fundamental breach of due process, including a fundamental breach of transparency, in judicial and administrative proceedings. Furthermore, they must not manifest arbitrariness or targeted discrimination or abusive treatment of investors, such as coercion, duress or harassment. When assessing compliance with the obligation of fair and equitable treatment, the Investment Tribunal established under the Agreement may take into account measures taken by a Party to induce investment and creating legitimate expectations upon which the investor relied in deciding to make or maintain the investment.
60. However, when assessing whether a measure taken by a Party breaches the provision in question, the Tribunal must consider whether the Party has acted inconsistently with the obligation of fair and equitable treatment. Thus, expectations of profit would not alone suffice as grounds for claiming compensation.
61. The Government observes that the second reason assumed by the complainant organisations for Finland's liability for billion euro scale compensations seems to be that, in the case of a dispute, the Investment Tribunal would accept Canadian businesses' possible claims for compensation as such.
62. In this context, the Government notes that firstly, in accordance with Article 8.1 of the CETA Agreement, in order to enjoy investment protection, the covered investment must be made in the territory and in accordance with the laws of the host country (Party where the investment is made). Secondly, any possible submission of a claim to the Tribunal, must meet the procedural and other requirements of such submission in accordance with Article 8.22 of the CETA Agreement. In addition, Article 8.32 and 8.33 stipulate on claims manifestly without legal merit and unfounded as matter of law.
63. More importantly, the Government notes that the Agreement, for the resolution of disputes, establishes a permanent tribunal which is subject to the principle of legality in its activities. When rendering its decision, the Tribunal shall apply the CETA Agreement and other rules and principles of international law applicable between the Parties. The Tribunal shall not have jurisdiction to determine the legality of a measure, alleged to constitute a breach of the CETA Agreement under the domestic law of the disputing Party. The Tribunal may consider domestic law as a matter of fact and in doing so it shall follow the prevailing interpretation given to the domestic law by the courts or authorities of that Party. Any meaning given to domestic law by the Tribunal shall also not be binding upon the courts or the authorities of that Party (Article 8.31 of the CETA Agreement). These together with the right to regulate (Article 8.9) and the definition of expropriation as confirmed in Annex 8-A, provide for the integrity of national laws.

64. In addition, the Tribunal may only award monetary damages and restitution of property, moreover, the monetary damages shall not be greater than the loss suffered by the investor. The costs of the proceedings shall be borne by the unsuccessful disputing party (Article 8.30).
65. Furthermore, the Agreement establishes an Appellate Tribunal, to which the rulings of the Investment Tribunal can be appealed. The Agreement also contains provisions on the appointment and independence of the members of the two tribunals and on the ethical and juridical foundations for the tribunals' activities. The complainant organisations have not paid attention to these provisions of the Agreement at all.
66. The Government notes that the complaint is accompanied with a separate annex describing how the joint effects of the freedom to choose the service provider after the Finnish health and social services reform and the CETA Agreement will endanger the basic rights concerning social welfare and health care.
67. In practice, however, the annex mainly criticises the proposal for the Act of Parliament on the freedom of choice, made in government proposal HE 16/2018.
68. Moreover, the annex, like the complaint itself, makes the ill-founded conclusion that the proposed Act on the freedom of choice, as such, would expose Finland to claims for billions of euros in compensation based on the CETA Agreement because the Agreement creates expectations of profits for transnational investors.
69. The Government notes that the government proposal on the Act on the freedom of choice is still pending in Parliament.
70. The Government points out that the complainant organisations either do not present any grounds at all for their allegations made in the complaint and the annexes, or present such grounds only in a cursory manner, failing to take account of all provisions of the CETA Agreement.
71. Furthermore, the organisations fail to specify how the Agreement would prevent the realisation of rights protected by the Charter other than those concerning working conditions, social and health services and social security as they refer to in the complaint.
72. All in all, the Government highlights that the allegations by the complainant organisations are very vague, general, unsubstantiated and speculative, and not supported by any relevant arguments nor evidence in that respect. Some of the allegations are also based of misleading and/or only partial presentation of the facts.
73. The Government further points out that in their reasoning (pages 3-13 of the Complaint), the complainant organisations claim violations of various international instruments such as the UN Charter, UN human rights treaties and the European Convention on Human Rights.
74. Thus, it appears that the intention of the complainant organisations has been to bring the issue under the attention of any international body without specifically substantiating their claims under the Social Charter.

75. In the Government's view, the complainant organisations have not specified how the complaint relates to each specific provision of the Charter they claim have been violated.
76. Further, in the Government's view, there is no indication in the complaint of how the Charter provisions are not applied in a satisfactory manner.
77. Further, according to paragraph 2 of the Explanatory Report to the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, "the system of complaints is to be seen as a complement to the examination of governmental reports, which naturally constitutes the basic mechanism for the supervision of application of the Charter".
78. The Government observes that there are various trade agreements including provisions on investments in force in Finland, such as the WTO agreement, and that the issue has never been raised by the Committee in the examination of the implementation of the obligations arising from the Charter.
79. Furthermore, it should be noted that the CETA Agreement is "a mixed agreement", the provisions of which partly fall within the competence of the European Union and partly within that of its Member States. Thus, in addition to the Union, also the Member States are Parties to the Agreement, and the Agreement is subject to approval by both the Union and the Member States.
80. Because the European Union has not acceded to the Revised European Social Charter, the Charter is not legally binding on it. Thus, the relevance of the Charter is confined to the very limited parts of the CETA Agreement under which the Member States have competence.
81. Article 2(1) of the Treaty on the Functioning of the European Union (TFEU) provides that when the Union has exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts in this area. According to Article 3(1)(e) TFEU, the EU has express exclusive competence in common commercial policy.
82. Article 2(2) TFEU provides that "[W]hen the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence."
83. Moreover, in 2017 a request for an opinion (Opinion 1/17) was submitted to the Court of Justice of the European Union concerning the CETA provisions on dispute settlement and their compatibility with Union law and fundamental rights. The matter is still pending before the Court. The requested opinion will define the official position for the whole Union. The Union has exclusive competence over all parts of the CETA Agreement except for those concerning investment other than direct foreign investment (so-called portfolio or indirect investment) and those concerning the procedure for settling disputes between investors and States.

84. Therefore, an individual Member State has a very limited opportunity and obligation to assess the CETA provisions from the perspective of realising the rights protected by the European Social Charter.

Request for immediate measures

85. The Government notes that according to Rule 36§1 of the rules of the Committee, the Committee may, as from the adoption of the decision on the admissibility of a collective complaint or at any subsequent time during the proceedings before or after the adoption of the decision on the merits, at the request of a party, or on its own initiative, indicate to the parties any immediate measure the adoption of which seems necessary with a view to avoiding the risk of a serious irreparable injury and to ensuring the effective respect for the rights recognised in the European Social Charter.
86. Further according to Rule 36§2, in case of a request for immediate measures made by a complainant organisation, the request shall specify the reasons therefore, the possible consequences if it is not granted, and the measures requested.
87. The Government notes that the complainant organisations have requested the Committee that “Finland is required to suspend the process of CETA approval as long as it has not assessed and reviewed the impacts of CETA, its investment court system and its court’s potential verdicts on the state’s ability to secure and implement human rights compliant to its obligations”.
88. Furthermore, the complainant organisations have requested the Committee to ensure that “Finland will assess and review CETA’s human rights impacts in a way which is acceptable to the European Committee of Social Rights as a competent human rights impacts assessment – including also CETA’s cumulative impacts when combined with other changes of legislation which the government proposes, such as new laws on social and health care services and new provisions on EU-Canada strategic partnership”.
89. The Government observes that the Committee has underlined that immediate measures can only be ordered exceptionally, when they are necessary to avoid the risk of a serious irreparable injury and to ensure effective respect for the rights recognised in the European Social Charter (Rule 36§1), insofar as the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact (*International Commission of Jurists v. Portugal*, Complaint No. 1/1999, decision on the merits of 9 September 1999, § 32).
90. The Government notes that the Committee has ordered immediate measures only in cases where the Committee has found that persons concerned by the complaint would evidently find themselves at risk of serious irreparable harm to their lives and their integrity when being excluded from access to shelter, food and clothing (*Conference of European Churches (CEC) v. the Netherlands*, Complaint No. 90/2013, decision on immediate measures of 25 October 2013 and *European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands*, Complaint No. 86/2012, decision on immediate measures of 25 October 2013).

91. Moreover, the Committee has not ordered any immediate measures in cases where the situation does not relate to tangible situations in which the persons concerned clearly face a risk of a serious irreparable injury (*Association for the Protection of all Children (APPROACH) Ltd v. Ireland*, Complaint No. 93/2013, decision on immediate measures of 2 December 2013, §2).
92. Also, in the case of *Unione Italiana del Lavoro U.I.L. Scuola – Sicilia v. Italy* (Complaint No. 113/2014, decision on admissibility and on immediate measures of 9 September 2015), the Committee found that the request for immediate measures did not establish a tangible situation in which the persons represented by UIL Scuola – Sicilia face a risk of a serious irreparable injury within the meaning of Rule 36§1. In addition, the Committee held that the measures requested lacked precision with regard to Rule 36§2.
93. In the Government's view, the complainant organisations have not presented any reasons why the immediate measures are necessary with a view to avoiding the risk of a serious irreparable injury or what a serious irreparable injury would be in the present case.
94. Furthermore, the Government observes that the complainant organisations have not specified any possible consequences if immediate measures are not granted.
95. In the Government's view, the request for immediate measures does not establish a tangible situation in which any person would face a risk of a serious irreparable harm.
96. In addition, the Government notes that the imposition of immediate measures would be to accept the merits of the complaint without sufficiently considering the issue at hand and thus would be inappropriate at this stage of the procedure and within the meaning of Article 36.
97. To the extent that the complainant organisations have requested the European Committee of Social Rights to take immediate measures to require Finland to suspend the process of CETA approval, the Government refers to paragraphs 79-84 above, by noting the "mixed agreement" nature of the agreement, the provisions of which partly fall within the competence of the European Union and partly within that of the Member States.
98. The Government notes that by established practice, Parliament approves such an agreement only to the extent that it falls within the competence of Finland.
99. The Government observes that the Finnish Parliament approved the CETA agreement on 16 May 2018 and passed the Act proposed in the government proposal on the approval and bringing into force of the Agreement, and has thus completed the consideration of the matter.
100. However, it should be noted that the Government informed the Foreign Affairs Committee of Parliament on the complaint before the CETA agreement was adopted by Parliament.

101. Regarding the complainant organisations' request for the human rights impact assessment of the CETA agreement, the Government notes that the Government proposal considers the matter from the perspective of impacts on the activities of public authorities, environmental impacts and societal impacts as per practice regarding government proposals.
102. Furthermore, the agreement has been analysed in the government proposal from the viewpoint of the Finnish Constitution (731/1999).
103. In this regard, it should be noted that the government proposal does take into account that the provisions of the Agreement have links with the Constitution of Finland, namely its section 1 (sovereignty), section 6 (equality and prohibition of discrimination), section 15 (expropriation, protection of property), section 18 (freedom to engage in commercial activity), section 19 (guaranteed public social and health services), section 21 (protection under the law), section 81, paragraph 1, and section 121, paragraph 3 (tax liability), as well as section 94, paragraph 2, and section 95, paragraph 2 (transfer of authority of significance to sovereignty).
104. Furthermore, the Agreement has been analysed from the viewpoint of Finland's sovereignty, which has been addressed in the Government proposal on the CETA agreement. Moreover, the Constitutional Committee of the Parliament, after hearing and consulting several independent experts and professors of international, constitutional and EU law, of the highest quality, concluded in its statement (PeVL 61/2017 vp- HE 149/2017 vp) that the provisions of the CETA Agreement establishing the Investment Court System (CETA Tribunal and the Appellate Tribunal) does not constitute a significant transfer of competence to an international organ from the point of view of the sovereignty of Finland. Therefore, nothing in the CETA Agreement would require deviation from a regular process to pass an Act.
105. With reference to the complainant organisations allegations that the Government has given to Parliament and to the public untrue and inadequate picture of CETA's provisions, the Government would like to point out that Parliament has been extensively and frequently informed about the negotiations throughout the process. A report on the mandate given to the European Commission to negotiate the CETA Agreement was given to the Finnish Parliament on 11 June 2009 (document E 71/2009 vp). Thereafter, Parliament was informed of the negotiation situation and the Agreement in more detail on 6 April 2011, 12 July 2011, 29 August 2011, 19 September 2011, 13 March 2014, 23 September 2014, 21 September 2016 (document U 70/2010 vp), 30 March 2016 (document E 32/2016 vp) and 2 December 2016 (document UJ 70/2016 vp).
106. Furthermore, Parliament has extensively discussed the matter in various committees, namely in the Foreign Affairs Committee, Environment Committee, Social Affairs and Health Committee, Legal Affairs Committee, Constitutional Law Committee, Finance Committee and Employment and Equality Committee.

107. Moreover, the Government points out that the committees begin handling the government proposals by hearing experts and obtaining information from other sources. Each committee decides independently which experts, including independent experts apart from the Government, to hear in a particular matter.
108. In addition, the Parliament on its own initiative has requested and received several further clarifications and information, both in written and oral form from the Government during the process of the Government's proposal.
109. The Government thus notes that the aforementioned committees have extensively heard the views of several experts before adopting the CETA agreement.

Conclusion

110. In the Government's view, in the specific circumstances of the present complaint, it is of importance to decide upon the admissibility of the complaint separately.
111. In the Government's view, for the reasons mentioned above the complainant organisations are not representative in the meaning of Article 2 of the Additional Protocol nor do they have particular competence within the meaning of Article 3 of the Protocol. Accordingly, the complaint should be declared inadmissible.
112. Should the Committee come to a different conclusion concerning the Government's preliminary objections, the Government is firmly of the view, without taking any stance on the merits of the case, that for the reasons mentioned above, the complainant organisations have failed to substantiate how the complaint relates to the provisions of the Charter, as well as to indicate in what respect Finland has not ensured the satisfactory application of the Charter's provisions. Thus, the complainant organisations have failed to meet the admissibility criteria laid down in Article 4 of the Additional Protocol. Accordingly, the complaint should be declared inadmissible.
113. At any rate, the Government is of the view that there has been no violation of any of the articles of the Charter in the present case.
114. Regarding the request for immediate measures, the Government is of the view that the complaint does not establish a tangible situation in which any person would face a risk of a serious irreparable harm. Accordingly, no immediate measures should be granted in the present case.

Accept, Sir, the assurance of my highest consideration.



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Director, Unit for Human Rights Courts and Conventions